

# Exhibit D - Deposition of Sgt. Garth Findley

Garth Findley

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

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CERTIFICATE OF REPORTER

I, Dana J. Tavaglione, a Certified Court Reporter, licensed by the State of Nevada, do hereby certify:

That I reported the deposition of the witness, GARTH FINDLEY, commencing on February 5, 2025, at 9:05 a.m.;

That prior to being examined, the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that I thereafter transcribed my related shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate record of testimony provided by the witness at said time.

I further certify (1) that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel involved in said action, nor a person financially interested in the action; and (2) that pursuant to Rule 30(e), transcript review by the witness was requested.

IN WITNESS HEREOF, I have hereunto set my hand, in my office in the County of Clark, State of Nevada, this 14th day of February 2025.

*Dana J. Tavaglione*

DANA J. TAVAGLIONE, RPR, CCR NO. 841

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1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 LATIA ALEXANDER, individually )  
4 as heir of ISAAH T. WILLIAMS )  
and in her capacity as Special )  
5 Administrator of the Estate )  
of ISAAH T. WILLIAMS, )  
6 )  
Plaintiff, ) CASE NO.  
7 )  
vs. ) 2:24-cv-00074-APG-NJK  
8 )  
LAS VEGAS METROPOLITAN POLICE )  
9 DEPARTMENT, a political )  
subdivision of the State of )  
10 Nevada; KERRY KUBLA, in his )  
individual capacity; BRICE )  
11 CLEMENTS, in his individual )  
capacity; ALEX GONZALES, in )  
12 his individual capacity; )  
: : : : : )  
13 : : : : : )  
14 )

15 VIDEO RECORDED DEPOSITION OF GARTH FINDLEY

16 Taken on Wednesday, February 5, 2025

17 At 9:05 a.m.

18 At the Offices of Lexitas

19 400 South Seventh Street

20 Las Vegas, Nevada  
21  
22  
23

24 REPORTED BY: DANA TAVAGLIONE, RPR, CCR 841

25 Job No. 59730, Firm No. 116F

Garth Findley

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<p>1 . . . . .</p> <p>2 . . . . .</p> <p>3 RUSSELL BACKMAN, in his )</p> <p>4 individual capacity; JAMES )</p> <p>5 ROTHENBURG, in his individual )</p> <p>6 capacity; JAMES BERTUCCINI, )</p> <p>7 in his individual capacity; ) CASE NO.</p> <p>8 MELANIE O'DANIEL, in her )</p> <p>9 individual capacity; DOES ) 2:24-cv-00074-APG-NJK</p> <p>10 I-XX, inclusive, )</p> <p>11 Defendants. )</p> <p>12 )</p> <p>13 )</p> <p>14 )</p> <p>15 )</p> <p>16 )</p> <p>17 )</p> <p>18 )</p> <p>19 )</p> <p>20 )</p> <p>21 )</p> <p>22 )</p> <p>23 )</p> <p>24 )</p> <p>25 )</p> <p>VIDEO RECORDED DEPOSITION OF GARTH FINDLEY</p> <p>Taken on Wednesday, February 5, 2025</p> <p>At 9:05 a.m.</p> <p>At the Offices of Lexitas</p> <p>400 South Seventh Street</p> <p>Las Vegas, Nevada</p> <p>REPORTED BY: DANA TAVAGLIONE, RPR, CCR 841</p> <p>Job No. 59730, Firm No. 116F</p>	<p>1 I N D E X</p> <p>2</p> <p>3 WITNESS: GARTH FINDLEY</p> <p>4 EXAMINATION PAGE</p> <p>5 Examination by Mr. Breeden 6</p> <p>6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 FINDLEY/PLAINTIFF'S PAGE</p> <p>10 1 LVMPD Special Weapons and Tactics 95</p> <p>11 printout, Bates No. LVMPD-001490</p> <p>12 2 Commission on Peace Officer 109</p> <p>13 Standards and Training</p> <p>14 Performance Objective Reference</p> <p>15 Material, Bates WILLIAMS-000809</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
3	5
<p>1 APPEARANCES:</p> <p>2</p> <p>3 For the Plaintiff:</p> <p>4 BREEDEN &amp; ASSOCIATES, PLLC</p> <p>5 BY: ADAM J. BREEDEN, ESQ.</p> <p>6 7432 West Sahara Avenue</p> <p>7 Suite 101</p> <p>8 Las Vegas, Nevada 89117</p> <p>9 702.819.7770</p> <p>10 adam@breedenandassociates.com</p> <p>11</p> <p>12 For the Defendants:</p> <p>13 MARQUIS AURBACH, CHTD</p> <p>14 BY: CRAIG ANDERSON, ESQ.</p> <p>15 10001 Park Run Drive</p> <p>16 Las Vegas, Nevada 89145</p> <p>17 702.382.0711</p> <p>18 canderson@maclaw.com</p> <p>19</p> <p>20 Also Present:</p> <p>21 Samuel Camacho, Videographer</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 LAS VEGAS, NEVADA; WEDNESDAY, FEBRUARY 5, 2025;</p> <p>2 9:05 A.M.</p> <p>3 -oOo-</p> <p>4 Thereupon --</p> <p>5 THE VIDEOGRAPHER: Today is January 5th,</p> <p>6 2025. The time is approximately 9:05 a.m. The</p> <p>7 court reporter is Dana Jo Tavaglione; and I'm your</p> <p>8 videographer, Samuel Camacho. We are here on behalf</p> <p>9 of Lexitas. The witness today is Officer Garth</p> <p>10 Findley, and we are here in the case of Latia</p> <p>11 Alexander, et al., vs. Las Vegas Metro Police</p> <p>12 Department, et al.</p> <p>13 Will Counsel please state your appearances,</p> <p>14 and the court reporter will administer the oath.</p> <p>15 MR. BREEDEN: This is Adam Breeden for the</p> <p>16 plaintiff.</p> <p>17 MR. ANDERSON: Craig Anderson on behalf of</p> <p>18 the defendants.</p> <p>19</p> <p>20 Thereupon --</p> <p>21 GARTH FINDLEY,</p> <p>22 having been first duly sworn to testify to the</p> <p>23 truth, was examined and testified as follows:</p> <p>24 ///</p> <p>25 ///</p>



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<p>6</p> <p>1 EXAMINATION</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q. Okay. Good morning, sir. Can you please</p> <p>4 state your full name, for the record, and go ahead</p> <p>5 and spell your first and last name as well.</p> <p>6 A. It's Garth Findley. And it's G-A-R-T-H,</p> <p>7 Findley, F-I-N-D-L-E-Y.</p> <p>8 Q. Okay. Is it Officer Findley? Sergeant</p> <p>9 Findley?</p> <p>10 A. Sergeant.</p> <p>11 Q. Okay. Sergeant Findley, on January 10th of</p> <p>12 2022, you were a officer assigned to the Las Vegas</p> <p>13 Metropolitan Police Department SWAT team; correct?</p> <p>14 A. Correct.</p> <p>15 Q. And on that date, you were the team leader</p> <p>16 at a SWAT operation that was performed at</p> <p>17 3050 South Nellis Boulevard, Apartment 1125; correct?</p> <p>18 A. Correct.</p> <p>19 Q. All right. You agree, in your performance</p> <p>20 as a law enforcement officer, you have a duty to</p> <p>21 conduct yourself such that you do not violate the</p> <p>22 civil rights of members of the public?</p> <p>23 A. Yes.</p> <p>24 Q. And you also agree that if you see other</p> <p>25 officers violating civil rights of the public, you</p>	<p>8</p> <p>1 jury today. It obligates you to tell the truth under</p> <p>2 penalty of perjury.</p> <p>3 Do you understand that?</p> <p>4 A. Yes.</p> <p>5 Q. Your deposition today is also being</p> <p>6 videotaped, and your testimony may be played or read</p> <p>7 for the jury at trial.</p> <p>8 Do you understand that?</p> <p>9 A. Yes.</p> <p>10 Q. The court reporter is taking down everything</p> <p>11 that is said during today's deposition, all of my</p> <p>12 questions and your answers and any other objections</p> <p>13 or comments, and after today's deposition, she'll put</p> <p>14 everything in a booklet or a transcript form. After</p> <p>15 the deposition, you can review that transcript, and</p> <p>16 you can make changes to your testimony, if you wish.</p> <p>17 But I'd like to caution you in advance that</p> <p>18 if you choose to make a change, I can comment on the</p> <p>19 fact that you said one thing here during your</p> <p>20 deposition and then, later, you changed your</p> <p>21 testimony.</p> <p>22 Do you understand that?</p> <p>23 A. Yes.</p> <p>24 Q. It's important for us to make a good record</p> <p>25 today for this court proceeding. So there's several</p>
<p>7</p> <p>1 have a duty to intervene?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Have you ever given deposition</p> <p>4 testimony before?</p> <p>5 A. Yes.</p> <p>6 Q. How many times?</p> <p>7 A. One time.</p> <p>8 Q. And I may as well just ask you, since</p> <p>9 there's only one other time. I'll ask you right now,</p> <p>10 why -- how long ago was that?</p> <p>11 A. That was about three years ago.</p> <p>12 Right?</p> <p>13 MR. ANDERSON: Yeah.</p> <p>14 BY MR. BREEDEN:</p> <p>15 Q. And what kind of case was that?</p> <p>16 A. That was a search warrant that we conducted</p> <p>17 for narcotics.</p> <p>18 Q. Was that the Jasmine King matter?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. All right. Even though you've been</p> <p>21 deposed before, I want to go some of the ground rules</p> <p>22 to today's deposition so you know what to expect.</p> <p>23 The oath that you were just administered by the court</p> <p>24 reporter is the same oath that you would take in a</p> <p>25 court of law, as if we were in front of a judge and a</p>	<p>9</p> <p>1 things I will ask you to do: If you don't understand</p> <p>2 any of my questions, please just ask me to repeat or</p> <p>3 rephrase them, and I'll be happy to do so for you.</p> <p>4 During today's deposition, you always need</p> <p>5 to give a audible or out loud or verbal answer to my</p> <p>6 questions, such as a "yes" or a "no." If you do</p> <p>7 things like you shake your head up and down or side</p> <p>8 to side, if you mean "yes" or "no," or if you use</p> <p>9 slang terms such as "uh-huh" or "huh-uh," those sort</p> <p>10 of responses do not show up well, if at all, on the</p> <p>11 transcript. So we may ask you "Did you mean 'yes' or</p> <p>12 did you mean 'no'" if you use some sort of nonverbal</p> <p>13 response.</p> <p>14 Do you understand that?</p> <p>15 A. Yes.</p> <p>16 Q. Also, you've done a good job so far.</p> <p>17 But as a general rule, during the deposition, try not</p> <p>18 to speak at the time, at the same time anyone else is</p> <p>19 speaking. We will all afford you the same courtesy.</p> <p>20 One of the many reasons why we ask you to do that is</p> <p>21 it is difficult for the court reporter to accurately</p> <p>22 take down what two people are saying at the same</p> <p>23 time. So please try not to speak over anybody else</p> <p>24 during the deposition.</p> <p>25 Do you understand that?</p>

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<p>10</p> <p>1 A. Yes.</p> <p>2 Q. During today's deposition, the attorney,</p> <p>3 Mr. Anderson, may have an objection to one or more of</p> <p>4 my questions. I want to explain to you how</p> <p>5 objections work during a deposition because they work</p> <p>6 a little differently than what you may have seen on</p> <p>7 TV or in a courtroom.</p> <p>8 As you can see, today we don't have a judge</p> <p>9 here present to immediately rule on objections. So</p> <p>10 what we do during a deposition, I ask a question, if</p> <p>11 Mr. Anderson wants to make an objection, he will</p> <p>12 state the objection, for the record. We then still</p> <p>13 look to you to give a response; and then later, if a</p> <p>14 judge needs to review the transcript and rule on the</p> <p>15 objection as to whether your response is admissible</p> <p>16 in court, the judge can do so.</p> <p>17 But I explain this to you because it</p> <p>18 confuses many people. They hear an objection and</p> <p>19 they think they are not supposed to respond.</p> <p>20 Generally speaking, the opposite is true during a</p> <p>21 deposition.</p> <p>22 Do you understand that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Do you have any questions for me</p> <p>25 before we begin the deposition?</p>	<p>12</p> <p>1 CIRT report. How long ago was that?</p> <p>2 A. Well, we met last week.</p> <p>3 Q. Is that the first time you had ever read the</p> <p>4 CIRT report regarding this incident?</p> <p>5 A. Yes.</p> <p>6 MR. ANDERSON: And just to clarify, I -- he</p> <p>7 just had the Conclusions and Findings, not the</p> <p>8 report.</p> <p>9 MR. BREEDEN: Okay. So --</p> <p>10 MR. ANDERSON: That's what he said, but I</p> <p>11 just want to make sure you understood.</p> <p>12 BY MR. BREEDEN:</p> <p>13 Q. So the full report is 222 pages. You did</p> <p>14 not review the full report?</p> <p>15 A. No.</p> <p>16 Q. Okay. And you've not reviewed any of the</p> <p>17 other witness statements or depositions, other than</p> <p>18 Mr. Backman's?</p> <p>19 A. Correct.</p> <p>20 Q. I should say "Sergeant Backman," shouldn't</p> <p>21 I?</p> <p>22 A. Yes.</p> <p>23 Q. And did you read his deposition transcript</p> <p>24 taken in this case?</p> <p>25 A. Yes.</p>
<p>11</p> <p>1 A. No.</p> <p>2 Q. Have you consumed any alcoholic beverages in</p> <p>3 the last 24 hours?</p> <p>4 A. No.</p> <p>5 Q. Have you taken any sort of drug, including</p> <p>6 prescription medication, in the last 48 hours?</p> <p>7 A. No.</p> <p>8 Q. Okay. Do you have any medical condition?</p> <p>9 A. No. Sorry.</p> <p>10 Q. An extreme example would be -- that's</p> <p>11 all right. An extreme example would be dementia or</p> <p>12 Alzheimer's disease that may affect your memory or</p> <p>13 your ability to testify here today.</p> <p>14 A. No.</p> <p>15 Q. What, if anything, have you done to prepare</p> <p>16 for today's deposition?</p> <p>17 A. I was given the CIRT recommendations, and</p> <p>18 then I was also given Sergeant Backman's statements.</p> <p>19 Q. Who were you given those by?</p> <p>20 A. By Craig Anderson.</p> <p>21 Q. Okay. Does Mr. Anderson, is it your</p> <p>22 understanding he is acting as your attorney here</p> <p>23 today?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. You said that you were provided the</p>	<p>13</p> <p>1 Q. Did you review any of the other interviews</p> <p>2 he gave, like his CIRT interview, regarding this</p> <p>3 incident?</p> <p>4 A. No.</p> <p>5 Q. Okay. Have you discussed what you recall or</p> <p>6 your anticipated testimony with any of the other</p> <p>7 officer defendants?</p> <p>8 A. No.</p> <p>9 Q. How -- how well do you know the defendants</p> <p>10 in this case? So let's see if I can recall them, off</p> <p>11 the top of my head: There's Rothenburg, Bertuccini,</p> <p>12 Kubla, Backman, and I'm sorry. I'm forgetting at</p> <p>13 least one other one.</p> <p>14 MR. ANDERSON: Gonzales.</p> <p>15 THE WITNESS: Alex Gonzales.</p> <p>16 (Reporter request.)</p> <p>17 THE WITNESS: Sorry. Alex Gonzales.</p> <p>18 MR. BREEDEN: Gonzales, and then who?</p> <p>19 MR. ANDERSON: Melanie O'Daniel.</p> <p>20 MR. BREEDEN: Melanie O'Daniel.</p> <p>21 MR. ANDERSON: That's it.</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q. And then there's -- well, there's one that</p> <p>24 was the primary shooter as well. I'm sorry. I</p> <p>25 can't -- I can't think of his name here.</p>



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<p>14</p> <p>1 Do you -- are these people that you know</p> <p>2 well? You worked with them for some time?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. You all work together on SWAT; right?</p> <p>5 A. Yes.</p> <p>6 Q. Well, I think one of the other officers said</p> <p>7 "SWAT is like a band of brothers." Those are your</p> <p>8 brothers that you work with; right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Have you been to some of their</p> <p>11 houses, personally?</p> <p>12 A. Yes.</p> <p>13 Q. And have you met their families?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So, in fairness, you probably don't</p> <p>16 want to see the outcome of this lawsuit be that your</p> <p>17 brothers that you work with every day are forced to</p> <p>18 pay a lot of money; is that fair?</p> <p>19 MR. ANDERSON: Objection. Form. Go ahead</p> <p>20 and answer.</p> <p>21 THE WITNESS: That's correct.</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q. Okay. But, also, you understand what</p> <p>24 perjury is and that you need to testify honestly</p> <p>25 today; right?</p>	<p>16</p> <p>1 A. No.</p> <p>2 Q. Do you have any medical background?</p> <p>3 A. No.</p> <p>4 Q. You have to receive some sort of medical</p> <p>5 training to be on SWAT?</p> <p>6 A. Correct. We'll take like a basic medical</p> <p>7 class, Patrol Medicine.</p> <p>8 Q. CPR.</p> <p>9 A. CPR, yes.</p> <p>10 Q. Okay. At what point in your life did you</p> <p>11 join Las Vegas Metro Police Department?</p> <p>12 A. It was 2007.</p> <p>13 Q. And what did you do for a living prior to</p> <p>14 joining Metro?</p> <p>15 A. I'm sorry. Two-thousand -- 03/05 is 2005.</p> <p>16 Q. Well, you know, I'll be honest with you, I</p> <p>17 was surprised by your response because I thought</p> <p>18 that, in your CIRT interview, you had said that you</p> <p>19 worked for Metro for 16 years prior to this incident.</p> <p>20 A. Correct. So I'm coming up on 20 years now.</p> <p>21 Q. Okay. Great. And I'm sorry. So 2004?</p> <p>22 A. So it was 03/05. So March of 2005.</p> <p>23 Q. And what did you do for a living prior to</p> <p>24 joining the force?</p> <p>25 A. When I came down to Vegas, I ended up</p>
<p>15</p> <p>1 A. Yes.</p> <p>2 Q. Okay. I'm just going to start with some</p> <p>3 background information as to you. What's your age?</p> <p>4 A. 45.</p> <p>5 Q. How long have you lived in Las Vegas?</p> <p>6 A. Since 2002.</p> <p>7 Q. And where did you live prior to 2002?</p> <p>8 A. Washington state.</p> <p>9 Q. And were you born and raised in Washington</p> <p>10 state?</p> <p>11 A. Yes.</p> <p>12 Q. You ever been convicted of a crime?</p> <p>13 A. No.</p> <p>14 Q. Can you summarize your education for me?</p> <p>15 A. Graduated from high school.</p> <p>16 MR. ANDERSON: Sorry. Sorry. Okay.</p> <p>17 THE WITNESS: Went on to attend Western</p> <p>18 Washington University, graduated with a Bachelor of</p> <p>19 Science degree in Sociology, minored in Psychology.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q. Do you have any, I would say formal</p> <p>22 education or college classes past that?</p> <p>23 A. No.</p> <p>24 Q. Okay. Do you have any legal background,</p> <p>25 such as a paralegal or legal assistant?</p>	<p>17</p> <p>1 working at RC Willey.</p> <p>2 Q. What made you want to become a police</p> <p>3 officer?</p> <p>4 A. Something that I was always looking at</p> <p>5 doing even when I was young.</p> <p>6 Q. Any members of your family in law</p> <p>7 enforcement?</p> <p>8 A. No.</p> <p>9 Q. What attracted you to the Las Vegas</p> <p>10 Metropolitan Police Department then?</p> <p>11 A. When I was down here, I was doing</p> <p>12 ride-alongs with them and decided it was a good</p> <p>13 career choice.</p> <p>14 Q. Okay. Well, that's a bit unusual that you</p> <p>15 would do ride-alongs before you joined the force.</p> <p>16 How did that happen?</p> <p>17 A. It was something, like I said, that I was</p> <p>18 wanting to get into for a career. I was deciding</p> <p>19 whether I was going to go through Henderson or</p> <p>20 Las Vegas Metropolitan Police Department. I ended</p> <p>21 up choosing Metro.</p> <p>22 Q. Okay. So when you first joined Metro, I</p> <p>23 assume you have to go to some sort of basic officer</p> <p>24 training course?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">18</p> <p>1 Q. And how long does that last?</p> <p>2 A. So your academy lasts a pretty long time.</p> <p>3 It's like six, six months.</p> <p>4 Q. And I just want to talk about sort of your</p> <p>5 progression through Metro. So when you originally</p> <p>6 completed the academy, what was your first</p> <p>7 assignment? Were you patrol, or?</p> <p>8 A. First assignment was patrol.</p> <p>9 Q. Okay. How long were you on patrol?</p> <p>10 A. I was in patrol for quite, quite a long</p> <p>11 time. So just to kind of break it down, I was on</p> <p>12 graveyard for about two years; and then after that,</p> <p>13 I went to a dayshift squad for probably about six</p> <p>14 months. From there I ended up going to a saturation</p> <p>15 team where I spent a good four years there. That is</p> <p>16 a proactive unit still on patrol; and from there, I</p> <p>17 went to the homeland team and spent a year there.</p> <p>18 That's still in patrol.</p> <p>19 And then from there, I ended up becoming a</p> <p>20 field training officer. So I spent a year doing</p> <p>21 that; and then from there, I ended up promoting to</p> <p>22 sergeant, where I worked regular patrol for another</p> <p>23 almost a year there, took over a neighborhood</p> <p>24 engagement team, still working patrol. I took over</p> <p>25 gangs, did that for two and a half years. Again,</p>	<p style="text-align: right;">20</p> <p>1 Q. All right. Was there any particular reason</p> <p>2 why the first two times you applied for SWAT, you</p> <p>3 were not accepted?</p> <p>4 A. So first time, I ended up failed it,</p> <p>5 failing the oral board, and so that was just I -- I</p> <p>6 was brand new to it, and so someone from the outside</p> <p>7 that has limited knowledge on it. Then, you know,</p> <p>8 that's what you're expected -- it's you need to know</p> <p>9 a lot of the policy that's involved because you have</p> <p>10 Metro's policy, and then you have the SWAT policy as</p> <p>11 well.</p> <p>12 Q. Yeah, there's very different SWAT policies;</p> <p>13 right?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And even then, once you're accepted</p> <p>16 onto the SWAT team, you have to go undergo more</p> <p>17 specific SWAT training; right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And how long does that take in terms</p> <p>20 of hours or months?</p> <p>21 A. Well, you're always training and then</p> <p>22 always qualifying every year. So you always have to</p> <p>23 stay up on that.</p> <p>24 Q. Okay. But how about when you're initially</p> <p>25 accepted into SWAT?</p>
<p style="text-align: right;">19</p> <p>1 all that's pretty much patrol. Gangs is -- took</p> <p>2 over more of a investigative aspect to it; and then</p> <p>3 from there, I ended up moving over to SWAT.</p> <p>4 Q. What year did you move over to SWAT?</p> <p>5 A. So that was 2019, July.</p> <p>6 Q. When you joined SWAT, what additional</p> <p>7 training did you have to go through?</p> <p>8 A. So it's quite a bit of training. I tested</p> <p>9 for, I would say three times, and then the third</p> <p>10 time, I actually ended up getting it. But there is</p> <p>11 quite a bit of a very intensive regiment as far as</p> <p>12 the training that you do once you are assigned to</p> <p>13 SWAT and then completing that.</p> <p>14 Q. So -- so tell me how that works. You said</p> <p>15 there -- there was testing and you actually had to do</p> <p>16 it three times before you were accepted into SWAT.</p> <p>17 Is this physical testing? Classroom testing?</p> <p>18 What kind of testing?</p> <p>19 A. So testing starts with a, a shoot, which is</p> <p>20 pistol, rifle. From there, you go on to a physical</p> <p>21 test and then which is an obstacle course; and then</p> <p>22 from there, you go over to another obstacle course;</p> <p>23 and then from that, you do some, it was some</p> <p>24 scenarios; and the last part of it is going to be an</p> <p>25 oral board.</p>	<p style="text-align: right;">21</p> <p>1 A. Initially accepted into SWAT, you're going</p> <p>2 to be taking a -- a -- several classes, just to be</p> <p>3 proficient before you become operational; and then</p> <p>4 within that year time frame, you're going to be</p> <p>5 completing a SWAT school.</p> <p>6 Q. Okay. And is the SWAT school, is that just</p> <p>7 classroom hours, or does it include classroom and</p> <p>8 field?</p> <p>9 A. It's classroom and training. It's not like</p> <p>10 you're going to be going on a live mission and</p> <p>11 that's counting as a SWAT school. So it's</p> <p>12 specifically classroom portion, training.</p> <p>13 Q. Okay. And do you teach any of those</p> <p>14 classes?</p> <p>15 A. No.</p> <p>16 Q. Okay. Who's the -- who's the primary SWAT</p> <p>17 instructor then?</p> <p>18 A. Back then?</p> <p>19 Q. Yes.</p> <p>20 A. So back then, it was quite a few</p> <p>21 instructors. So one of them was Dwayne Ferrin. We</p> <p>22 had Carl Knolls. Those were some of the instructors.</p> <p>23 Q. Okay. Do you think that additional SWAT</p> <p>24 training, that that has value?</p> <p>25 A. Yes.</p>



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<p>22</p> <p>1 Q. Do you think that it's important that</p> <p>2 officers be specifically trained on SWAT policies and</p> <p>3 procedures before they join SWAT?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Would you recommend that they undergo</p> <p>6 that and complete that training before they go on</p> <p>7 live missions?</p> <p>8 A. So, yes.</p> <p>9 Q. Okay. I want to talk a little bit about the</p> <p>10 structure of SWAT. First of all, though, I guess,</p> <p>11 let me ask an additional background.</p> <p>12 Within -- well, okay, the structure of SWAT.</p> <p>13 Okay. There are people on SWAT, and then amongst</p> <p>14 those officers, some are team leaders and assistant</p> <p>15 team leaders; is that accurate?</p> <p>16 A. Yes.</p> <p>17 Q. And so how is a team leader and assistant</p> <p>18 team leader selected?</p> <p>19 A. So team leaders are going to be your</p> <p>20 sergeants, and so what you do is you go through that</p> <p>21 testing process. So if an individual, a prior</p> <p>22 sergeant, ends up leaving, moving on to some --</p> <p>23 something else or ends up promoting, then we always,</p> <p>24 every year, will have a, basically a selection</p> <p>25 process. So that hiring process, testing for it.</p>	<p>24</p> <p>1 A. Correct.</p> <p>2 Q. All right. Just two teams?</p> <p>3 A. Correct.</p> <p>4 Q. And I don't know how familiar you are with</p> <p>5 this, but not every police department in the country</p> <p>6 has full-time SWAT officers; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Are you aware that Las Vegas is</p> <p>9 considered a Tier 1 SWAT team? Have you ever heard</p> <p>10 that term before?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. What does Tier 1 indicate?</p> <p>13 A. Tier 1 is basically you are going to be,</p> <p>14 that is your primary position. So other agencies,</p> <p>15 whether they're small in size and they have regional</p> <p>16 teams, so you have multiple areas that comprise and</p> <p>17 make up a SWAT team. So they can be regular patrol,</p> <p>18 and if they need to serve a warrant, then everybody</p> <p>19 gets together who is part of that team, and that's</p> <p>20 your regional team.</p> <p>21 Q. But a Tier 1 team, like Las Vegas Metro</p> <p>22 Police Department has, those are all full-time SWAT</p> <p>23 officers?</p> <p>24 A. Correct.</p> <p>25 Q. And there -- there's actually two teams so</p>
<p>23</p> <p>1 So then that team leader, whoever is chosen, will</p> <p>2 fill that vacancy. Same things goes for operators</p> <p>3 as well. So it's a testing process.</p> <p>4 Q. Okay. And at what point did you become a</p> <p>5 team leader for SWAT?</p> <p>6 A. So July of 2019 is when I was selected. I</p> <p>7 was one of several other sergeants that tested.</p> <p>8 Q. Okay. So essentially you beat out other</p> <p>9 sergeants for the position?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Were any of the other people then</p> <p>12 that were -- you were promoted over, did they remain</p> <p>13 on SWAT in other capacities?</p> <p>14 A. Say that again.</p> <p>15 Q. Well, yeah. So these people who were not</p> <p>16 given a team leader position on SWAT, did they remain</p> <p>17 on SWAT?</p> <p>18 A. No. So if you're testing for SWAT, you're</p> <p>19 not on SWAT.</p> <p>20 Q. Okay.</p> <p>21 A. Yeah.</p> <p>22 Q. So, again, just to talk a little bit about</p> <p>23 the structure. My understanding is, at this time, in</p> <p>24 January of 2022, there was a Silver Team and a</p> <p>25 Gold Team for SWAT; is that correct?</p>	<p>25</p> <p>1 that there's 24 hour SWAT coverage for the police</p> <p>2 force; correct?</p> <p>3 A. Correct.</p> <p>4 Q. Now, as the team leader then and a sergeant,</p> <p>5 when there's a SWAT operation -- I would call it a</p> <p>6 "SWAT raid." Do you call it a "SWAT operation"?</p> <p>7 What do you call it?</p> <p>8 A. SWAT operation, SWAT mission.</p> <p>9 Q. Okay. Well, we'll say "mission." When</p> <p>10 there's a SWAT mission, as the team leader, are you</p> <p>11 the most senior SWAT person onsite when the mission</p> <p>12 happens?</p> <p>13 A. No.</p> <p>14 Q. Okay. Who would that be, and how is that</p> <p>15 determined then?</p> <p>16 A. So there's roughly -- and I don't know the</p> <p>17 exact number right now because I've been out of SWAT</p> <p>18 for six months. So there's 33, 34 SWAT operators,</p> <p>19 and then you have your four sergeants. So within</p> <p>20 that team, there's a wide range of experience and</p> <p>21 wide range of who's been on. You know, some have</p> <p>22 been on over ten years. So for me, back then, you</p> <p>23 know, I was only on for two-and-a-half years.</p> <p>24 There -- there's operators who have been on ten,</p> <p>25 ten-plus years in SWAT.</p>

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<p style="text-align: right;">26</p> <p>1 Q. Oh, okay. But -- but I mean, in terms of</p> <p>2 chain of command, would you, as the sergeant team</p> <p>3 leader, be the person in charge?</p> <p>4 A. Yes. Unless there's a lieutenant there or</p> <p>5 if there's a senior sergeant there.</p> <p>6 Q. Is it unusual for a lieutenant to be there</p> <p>7 for a typical SWAT mission?</p> <p>8 A. No, it's not unusual.</p> <p>9 Q. Okay. For this particular operation, on</p> <p>10 January 10th of 2022, was there any lieutenant</p> <p>11 physically present?</p> <p>12 A. Not a SWAT lieutenant.</p> <p>13 Q. Yeah, you're right. I should have limited</p> <p>14 it to SWAT. So limited to SWAT, you -- you were the</p> <p>15 sergeant in charge; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. And, in particular, there was</p> <p>18 another sergeant who had recently joined SWAT, and</p> <p>19 that was Sergeant Backman; correct?</p> <p>20 A. Correct.</p> <p>21 Q. And were you the direct supervisor of</p> <p>22 Sergeant Backman during the operation?</p> <p>23 A. Correct. And then there was one other</p> <p>24 sergeant, Sergeant Casey Clarkson.</p> <p>25 Q. Okay. And so talking, again, a little bit</p>	<p style="text-align: right;">28</p> <p>1 A. Deputy chiefs.</p> <p>2 Q. Deputy chief. Then undersheriff?</p> <p>3 A. Correct.</p> <p>4 Q. Then sheriff?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Do you happen to know who the deputy</p> <p>7 chief that Captain Cole would report to at that time?</p> <p>8 A. No.</p> <p>9 Q. Now, by the way, I just wanted to back-up a</p> <p>10 moment or two. You said that you are no longer on</p> <p>11 the SWAT; is that accurate?</p> <p>12 A. Correct.</p> <p>13 Q. And when did you leave SWAT?</p> <p>14 A. Back in July.</p> <p>15 Q. July of 2024?</p> <p>16 A. Correct.</p> <p>17 Q. Why did you leave SWAT?</p> <p>18 A. There's a five year cap for sergeants, and</p> <p>19 they have a ten year cap for operators. So my time</p> <p>20 there expired. So I had to leave.</p> <p>21 Q. And so where were you reassigned?</p> <p>22 A. Currently, I'm at the airport right now.</p> <p>23 Q. All right. Have you ever held any</p> <p>24 professional licenses or certifications?</p> <p>25 A. No.</p>
<p style="text-align: right;">27</p> <p>1 more about the structure, above you, in the chain of</p> <p>2 command, as a sergeant, would be a SWAT lieutenant;</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And is the only lieutenant, at that time,</p> <p>6 Lieutenant O'Daniel?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And what was her actual title at that</p> <p>9 time?</p> <p>10 A. Lieutenant, and then they also call</p> <p>11 "tactical commander."</p> <p>12 Q. So she was tactical commander at that time.</p> <p>13 What does that mean to you?</p> <p>14 A. In charge of SWAT missions, when you're out</p> <p>15 there, tactical commander.</p> <p>16 Q. And then going up the chain, above</p> <p>17 Lieutenant O'Daniel, who was that, at the time?</p> <p>18 A. It would be Captain Brian Cole.</p> <p>19 Q. And Captain Cole, is he then the most senior</p> <p>20 officer at LVMPD, at that time, that is exclusively a</p> <p>21 SWAT, assigned to SWAT?</p> <p>22 A. Correct. It would be the highest ranking.</p> <p>23 Q. Okay. And if we went over Captain Cole,</p> <p>24 would -- would we get to the undersheriffs at that</p> <p>25 point?</p>	<p style="text-align: right;">29</p> <p>1 Q. Have you ever tested for some kind of</p> <p>2 promotion and it was denied? And I think we talked</p> <p>3 about there were twice that you applied for SWAT</p> <p>4 and -- and that was denied. Is there anything else?</p> <p>5 A. No.</p> <p>6 Q. Have you ever been suspended or reprimanded</p> <p>7 at Las Vegas Metro Police Department?</p> <p>8 A. No.</p> <p>9 Q. Not even over the Jasmine King incident?</p> <p>10 A. Received a contact, which is just a</p> <p>11 informal conversation.</p> <p>12 Q. And what was the contact regarding?</p> <p>13 A. Regards to like a chain of command.</p> <p>14 Q. And how about over this incident, I mean, it</p> <p>15 was a fatal shooting of Mr. Williams. Were you given</p> <p>16 any suspension, reprimand, or contact over that?</p> <p>17 A. No.</p> <p>18 Q. Let's talk a little about the Jasmine King</p> <p>19 incident. Just for the record, that happened on</p> <p>20 January 15, 2021, almost exactly one year before the</p> <p>21 fatal shooting of Mr. Williams. What happened?</p> <p>22 A. Served a search warrant for narcotics at</p> <p>23 that location. We ended up utilizing a Control</p> <p>24 Entry Tactic with a -- with a explosive breach. As</p> <p>25 soon as we conducted the explosive breach,</p>

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<p>30</p> <p>1 Ms. Jasmine King was right next to the door. She</p> <p>2 sustained a little bit of injury to her eye; and</p> <p>3 then ended up clearing the residence and got Jasmine</p> <p>4 King out there, got her her medical.</p> <p>5 Q. Okay. And Ms. King, she was not a suspect</p> <p>6 and she was committing no crime at the time; right?</p> <p>7 A. No.</p> <p>8 Q. Do you mean I'm correct?</p> <p>9 A. Oh. Correct.</p> <p>10 Q. Okay. And so you were also the team leader</p> <p>11 on that operation; correct?</p> <p>12 A. Correct.</p> <p>13 Q. And you had called for what you called a</p> <p>14 "short count" or a "quick count" on that CET entry;</p> <p>15 right?</p> <p>16 A. Correct.</p> <p>17 Q. And what does that mean to you?</p> <p>18 A. So that is a -- how we're going to go</p> <p>19 through the breach count, which you need to make</p> <p>20 sure that -- because we have a couple different</p> <p>21 types of breaches. So whether it's a long breach;</p> <p>22 whether it's a breach, 3-2-1 breach; or just stand</p> <p>23 by, breach-breach-breach. So that's the person who</p> <p>24 has the plunger to detonate the charge.</p> <p>25 Q. Okay. And that was a Property-Only Search</p>	<p>32</p> <p>1 A. Correct.</p> <p>2 Q. Is it your understanding that Knock and</p> <p>3 Announce is part of Nevada State law?</p> <p>4 A. Correct.</p> <p>5 Q. Is it your understanding that Knock and</p> <p>6 Announce is actually part of federal constitutional</p> <p>7 requirements under the Fourth Amendment?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And so did Internal Affairs conclude</p> <p>10 that you had violated the Knock and Announce rule in</p> <p>11 the King matter?</p> <p>12 A. I don't -- like I said, I don't remember</p> <p>13 what I.A., their conclusions were.</p> <p>14 Q. Okay. And Ms. King was blinded, at least</p> <p>15 temporarily, in -- in one of her eyes as a result,</p> <p>16 wasn't she?</p> <p>17 A. From what I was told, yes.</p> <p>18 Q. And did she also have a burst eardrum?</p> <p>19 A. I don't know.</p> <p>20 Q. Did it appear to you that Ms. King was</p> <p>21 attempting to answer the door at the time the</p> <p>22 explosive went off?</p> <p>23 MR. ANDERSON: Objection. Form. Go ahead.</p> <p>24 THE WITNESS: Standing at that door, at</p> <p>25 that time frame, probably, yes, she was getting</p>
<p>31</p> <p>1 Warrant you were executing at that time; right?</p> <p>2 A. Correct.</p> <p>3 Q. Through SWAT?</p> <p>4 A. Correct.</p> <p>5 Q. And that was also investigated by Internal</p> <p>6 Affairs; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And what conclusions did Internal Affairs</p> <p>9 come to regarding what SWAT had done on that</p> <p>10 occasion?</p> <p>11 MR. ANDERSON: Objection. Form. Go ahead</p> <p>12 and answer.</p> <p>13 THE WITNESS: So as far as I.A. goes, I</p> <p>14 don't know what the conclusion was, the findings</p> <p>15 that they -- they produced. It was, through SWAT,</p> <p>16 how it affected us was limited the times that we</p> <p>17 would utilize a explosive breach on search warrants.</p> <p>18 BY MR. BREEDEN:</p> <p>19 Q. Okay. So that was a regular search warrant</p> <p>20 as opposed to a No Knock Warrant; correct?</p> <p>21 A. Correct. That was a Knock and Announce</p> <p>22 warrant.</p> <p>23 Q. Yeah. And so you understand that, during a</p> <p>24 regular warrant, you must abide by Knock and Announce</p> <p>25 principles?</p>	<p>33</p> <p>1 ready to answer the door.</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q. Okay. So you were actually personally sued,</p> <p>4 along with several other members of the SWAT team, by</p> <p>5 Ms. King following the incident; correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you're aware of that part of her lawsuit</p> <p>8 was that you and other members of the SWAT team</p> <p>9 failed to abide by the Knock and Announce rule?</p> <p>10 A. Correct.</p> <p>11 Q. And that case was resolved on your behalf,</p> <p>12 wasn't it?</p> <p>13 A. Yes.</p> <p>14 Q. And do you know the amount that was paid to</p> <p>15 Ms. King?</p> <p>16 A. No.</p> <p>17 Q. Do you know, was there any finding in the</p> <p>18 lawsuit that the officers had violated the Knock and</p> <p>19 Announce rule?</p> <p>20 A. I don't remember the findings.</p> <p>21 Q. Looking back on it, do you believe you</p> <p>22 failed to abide by the Knock and Announce rule in</p> <p>23 that case?</p> <p>24 MR. ANDERSON: Objection. Form. Go ahead</p> <p>25 and answer.</p>



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<p>34</p> <p>1 THE WITNESS: Looking back, I think we 2 could have gave more announcements, more time. 3 BY MR. BREEDEN: 4 Q. Okay. And you were actually the -- the team 5 leader that helped plan that and the -- the explosive 6 short count; right? 7 A. No. 8 Q. Who was it? 9 A. That was Sergeant Young, who was in charge 10 of that operation. 11 Q. Okay. Was that operation, was the IAP, was 12 that also approved by Lieutenant O'Daniel? 13 A. Yes. 14 Q. Okay. Would Lieutenant O'Daniel have to 15 approve all SWAT IAPs at that time? 16 A. Yes. 17 Q. And explain to me your understanding of what 18 changes to SWAT policies and procedures were made as 19 a result of the King incident. 20 A. So as far as the policies, we would need 21 higher approval as far as utilization of a explosive 22 breach; and we, at that point in time, from that 23 result, were limited on using explosive breach for 24 that type of search warrant. 25 Q. Meaning a Property-Only Search Warrant?</p>	<p>36</p> <p>1 that, as a result of the King incident, that CET 2 entries for property-only search warrants were banned 3 by Metro? 4 A. They weren't banned by Metro. We were 5 still allowed to do CETs for that type of search 6 warrant, and as long as there -- their -- the 7 factors met that there was violent individuals 8 inside who had access to weapons. 9 Q. That's your understanding of the policy 10 change? 11 A. From that point in time, yes, that we could 12 utilize a CET for that type of a search warrant. 13 Q. So your understanding was that, as a result 14 of the King incident, Metro's policies and procedures 15 changed such that CET entry was only allowed on 16 property-damage search warrants if there were violent 17 individuals with weapons inside? 18 A. So if it met the -- the requirement of a 19 high risk search warrant. So if there is a forced 20 entry that we're going to be utilizing, if it's 21 unknown or violent individuals outside, if there's 22 likelihood that they'll have access to weapons, then 23 yes, we can utilize a CET for that service of the 24 search warrant. 25 Q. Is it your understanding that using</p>
<p>35</p> <p>1 A. Correct. 2 Q. And by the way, it's your understanding that 3 the search warrant for this incident that we're 4 discussing today, on January 10th of 2022, where 5 Mr. Williams was sought -- shot, that was a 6 Property-Only Search Warrant as well; right? 7 A. Correct. Accompanied with the subjects 8 listed in the PC statement. 9 Q. Okay. But the warrant was a Property-Only 10 Search Warrant? 11 A. Correct. Recover the evidence of the 12 homicide. 13 Q. There was no arrest warrant; correct? 14 A. No. 15 Q. I'm sorry. When I say "correct" and you say 16 "no" -- 17 A. Oh. 18 Q. -- some people might interpret that as you 19 believe my statement is incorrect. So we just need 20 to clean that up a little bit. 21 Is it correct that there was not a arrest 22 warrant? 23 A. That is correct. There was no arrest 24 warrant. 25 Q. All right. And is it your understanding</p>	<p>37</p> <p>1 explosives to knock down a door, that that was banned 2 for property-only search warrants? 3 A. I don't think it was absolutely, 4 100 percent, banned. But we would need a higher 5 level of approval in order to utilize a CET -- or 6 sorry -- that explosive breach. 7 Q. Okay. Did anyone come to you, at some point 8 after the Jasmine King incident, and say: "Look, as 9 a result of this incident, our SWAT policies and 10 procedures have changed, here's how they're different 11 today"? 12 A. No. 13 Q. So how did you learn that there was any 14 change in the policies and procedures? 15 A. Just conversations that we had with our 16 lieutenant and because we're having to make those 17 policy changes within our SWAT policy. 18 Q. That would be Lieutenant O'Daniel? 19 A. Correct. 20 Q. Okay. And what did -- what did Lieutenant 21 O'Daniel explain to you? 22 A. That following the incident were your -- 23 the CIRT recommendations from that incident, we're 24 having to change some of the verbiage in the -- into 25 the policy.</p>

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<p>38</p> <p>1 Q. Okay. And did that policy change take 2 effect prior to the incident in this case, on 3 January 10th of 2022? 4 A. So prior to this incident, yes, it 5 occurred. 6 Q. Okay. Do you recall how long before the 7 Williams' incident the policy change was? 8 A. No. 9 Q. Okay. Have you ever been sued by anyone 10 else in connection with your employment at LVMPD? 11 A. No. 12 Q. Are you aware of any times, other than the 13 Williams' incident or the King incident, that it's 14 been alleged that you violated Knock and Announce or 15 used excessive force in conducting a SWAT mission? 16 A. No. 17 Q. Did Mr. Anderson also represent you in the 18 King matter? 19 A. Yes. 20 Q. Has he represented you for any other legal 21 matters, other than the King matter and this matter? 22 A. No. 23 Q. Explain the concept of a CTE entry and how 24 that, "CET" entry I should say, and how that differs 25 from a SACO.</p>	<p>40</p> <p>1 many bodies. If there is enough room around the 2 structure to where we can put our armor, whether on 3 the 1-2, 1-4, and then on the backside of the 4 structure, we can utilize those armored vehicles as 5 our protection, once we have the residence safely 6 contained, and then we can call the person out to us. 7 Q. Now, for this particular incident with 8 Mr. Williams, the decision to use a CET entry, had 9 that already been made by the time you got involved? 10 A. Yes. 11 Q. And, ultimately, was that Lieutenant 12 O'Daniel that made that decision? 13 A. Correct. 14 Q. Okay. Are you aware of anyone else that 15 assisted her in that decision? 16 A. Sergeant Backman was relaying the 17 information with his assistant team leader; that was 18 Jake Warner, with all the intel that they gathered 19 from that, that residence and that search warrant, 20 and they relayed that information to Lieutenant 21 O'Daniel. 22 Q. Why was Sergeant Backman involved as opposed 23 to yourself? You were the team leader or intended 24 team leader. 25 A. Correct. I was out of town.</p>
<p>39</p> <p>1 A. So Controlled Entry Tactic, we are going to 2 be utilizing that on a servicing of a search 3 warrant, as I mentioned before, if it's a high risk 4 search warrant. So if there's the indication that 5 we have or the intel that we have, that we're going 6 to be using a forced entry if it's a unknown or 7 violent individual inside, if they have access to 8 any type of weapons, we also take those 9 considerations into account. 10 Also, besides the structure, the location, 11 the time of day, what type of evidence is involved, 12 the likelihood of that destruction of evidence, and 13 then if we can safely use that speed, surprise, 14 overwhelming action to get in there and dominate a 15 structure very quickly. 16 And then -- and then you said you wanted a 17 SACO, a Surround and Callout? 18 Q. Yes. 19 A. So exactly -- it's exactly what it sounds 20 like or what it says is you're calling the person 21 out to us. So with a SACO, you're going to be 22 safely surrounding the structure, if we can. And a 23 good example is, on a large house, maybe like a 24 two-story house, we cannot safely dominate that 25 structure very quickly. It would take too long, too</p>	<p>41</p> <p>1 Q. Okay. That's the only reason? 2 A. Well, once I was out of town, I advised 3 Sergeant Back- -- Sergeant Bonkavich and also 4 Sergeant Casey Clarkson that I'd be leaving on 5 vacation; they would be helping assist with 6 Sergeant Backman. And, again, going back to this is 7 a team environment. He's not solo. And so Sergeant 8 Backman is 20-some years of a sergeant, or an 9 officer and then as a sergeant. So he has a lot of 10 experience, a lot of experience in narcotics, a lot 11 of experience with dealing with search warrants. He 12 came from major violators. He's dealt with 13 Surround and Call Out incidences before. 14 And then as far as him being operational, 15 so he had quite a bit of experience with that 16 because as soon as he came to the team, he was given 17 a 40 hour SWAT school. So with that, he became 18 operational. He had a very good ATL, which is that 19 Assistant Team Leader, Jake Warner. He also had the 20 rest of the team, so additional ATLs, Levi Hancock, 21 all those subjects were there to assist him in the 22 intel gathering, the recommendations, and then 23 giving that information to Lieutenant O'Daniel. 24 Q. Okay. So I've heard your CIRT interview 25 that you gave in this case, and I'm just going to</p>



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<p style="text-align: right;">42</p> <p>1 kind of summarize some of these things here. You  2 tell me if I'm wrong. My understanding is you first  3 learn about this search warrant and SWAT mission on a  4 Friday and then the mission was to occur the  5 following Monday, after the weekend; is that correct?  6 A. Yes.  7 Q. Okay. And you had just preplanned to be out  8 of town with your family. You were going hunting  9 that weekend; right?  10 A. Correct.  11 Q. All right. So instead of you being  12 personally involved in some of these issues with the  13 IAP, instead, that was deferred to Sergeant Backman;  14 right?  15 A. Correct.  16 Q. And Sergeant Backman, at that time, had not  17 even been on SWAT for 30 days; correct?  18 A. Correct.  19 Q. And he had not completed the basic SWAT  20 training at that time either, had he?  21 A. The -- that would be incorrect. So for  22 him, in his first week, he was introduced with a  23 one-on-one modified SWAT school specifically for  24 him. That was December 13th through the 16th. So  25 40 hours. In that class, he gets search warrant</p>	<p style="text-align: right;">44</p> <p>1 but forgot about the same tactic that's being used  2 on hostage rescue.  3 Q. Okay. Do you agree that he had not  4 completed his SWAT training at the time this incident  5 occurred?  6 A. Well, he completed that modified SWAT  7 school for him. And then what you're referring to  8 as far as a "SWAT school" would have been later on  9 in his time frame.  10 Q. And so he had not completed that additional  11 training at the time this occurred?  12 A. Not that long SWAT school.  13 Q. Okay. Is that 120 hour course? How many  14 hours?  15 A. Yes. About. I would have to guess, but  16 yes, about that time frame.  17 Q. And did you have any concerns about allowing  18 somebody who had not completed all the SWAT training  19 and had been on SWAT for less than 30 days to have  20 such a crucial role in the planning and  21 implementation of this?  22 A. No. Because as far as his role in planning  23 it, again, this is that team environment where you  24 have your recon teams who have been there for  25 five-plus years, which was Kai, and the rest of the</p>
<p style="text-align: right;">43</p> <p>1 training. He gets close quarter tactics. He gets  2 an NFDD, which is a Noise Flash Diversionary  3 Devices. He gets patrol medicine. Everything that  4 he needs in order to be operational at that point in  5 time.  6 Q. Okay. But the Williams' SWAT mission, that  7 was going to be the very first SWAT mission he ever  8 went on in the field; right?  9 A. No.  10 Q. No? How many other SWAT missions had he  11 been on before Williams?  12 A. So during his time frame, he was being sent  13 out, he was supposed to respond to any barricade,  14 any search warrant that came up. He was also --  15 went on a hostage rescue situation where we use a  16 CET tactic. So he had, has done quite a bit of the  17 missions and tactics before this incident.  18 Q. My understanding is this incident with  19 Mr. Williams was the first time he had been involved  20 with a SWAT mission using a CET tactic. Do you  21 believe that to be untrue?  22 A. So as far as an H.R., hostage rescue, he  23 was on that incident, and we used a CET. That is  24 that, that tactic that we use in order to make entry  25 on a hostage rescue. So, more than likely, confused</p>	<p style="text-align: right;">45</p> <p>1 team that are going out doing the recon, doing the  2 planning, giving that information to Jake Warner,  3 who's the assistant team leader, who has over five  4 years of -- of being up in SWAT, as long -- as well  5 as you have Levi Hancock, who has been in SWAT for,  6 back then, almost ten years.  7 So this is a lot of planning that they do,  8 and then they had the assistant of Sergeant Clarkson  9 and Sergeant Bonkavich as well, if they needed to.  10 So this isn't Sergeant Backman being all his  11 mission. This is a -- that team environment which  12 they create. Here's the plan. This is the safest  13 plan. There you go, so.  14 Q. Well, knowing how this turns out, do you  15 think this was a safe SWAT operation?  16 MR. ANDERSON: Objection. Form. Go ahead.  17 THE WITNESS: At the time, it would be the  18 safest that we did.  19 BY MR. BREEDEN:  20 Q. Well, you mentioned a SACO. It was  21 certainly feasible to do a SACO for service of this  22 search warrant, wasn't it?  23 A. No.  24 Q. Okay. What are all the reasons why you  25 don't think it was feasible?</p>



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<p style="text-align: right;">46</p> <p>1 A. The reason why we couldn't do a Surround 2 and Callout is because on a multi-housing complex, 3 the person has a lot of avenues of escape. So 4 whether internally, if you give them that 5 opportunity to escape, because it's been -- I've 6 been on a bunch of missions before where people 7 start burrowing through walls, and that's what we 8 don't want is murder suspects who have guns going 9 into other apartments. 10 Now, as far as that internally, then you 11 look externally, then he has more access into other 12 apartments. There is that brick wall, wrought iron 13 fence that goes around the entire complex. So we 14 couldn't get our armor into position. Now, if you 15 sit there and say: Well, it's a busy road on Nellis 16 to park armor in, well, that's too far away, and if 17 the subject does come out and resist in any way, we 18 can't implement that lethal plan. You have that 19 barrier there. You can't put our guys directly in 20 there, on the inside, without any type of armor and 21 protection. That's the reason why we couldn't do a 22 Surround and Callout on that. 23 Q. Okay. So you believe it was not feasible to 24 do a Surround and Callout on that particular 25 apartment at 3050 South Nellis, No. 1125?</p>	<p style="text-align: right;">48</p> <p>1 it and approved it? 2 A. Correct. They review it as well. There's 3 also the recommendations from the person that, the 4 affiants, who is homicide, their saying it would be 5 a good time frame to do it at that time. 6 Q. And so first of all, let's -- let's talk a 7 little bit about that. Homicide doesn't tell SWAT 8 how to do their job, does they? 9 A. No. What they do is they give 10 recommendations going for time frames, this is when 11 we observe this person being most active, and so we 12 could sit there and say, okay, most active at this 13 time and they could maybe give a time frame around 14 there. 15 Q. What's the purpose of doing this at 16 5:00 a.m.? Why -- why was it approved in that 17 manner? 18 A. So what you have to do is take into 19 consideration the location. Nellis is very busy at 20 that, at that intersection. So at 5:00 in the 21 morning, you're not going to have that much traffic 22 on the roadway. You're -- you're limiting the -- as 23 far as like the time of -- time of day for school, 24 the kids be out and about, that is -- I'm very 25 familiar with the complex. It's very active</p>
<p style="text-align: right;">47</p> <p>1 A. No. 2 Q. Has SWAT ever done Surround and Callout for 3 apartments? 4 A. We have. 5 Q. It's probably happened in the history of 6 SWAT, hasn't it? 7 A. Correct. 8 Q. Even if there's some risk of tunneling, 9 right, going into another apartment? 10 A. Correct. Then, again, you evaluate the 11 circumstances of who you're dealing with. So what 12 type of search warrant is it; are we dealing with 13 someone who is not a flight risk, that is not going 14 to be doing that type of burrowing through the 15 Walls, he doesn't have access to weapons at all? 16 Then you can sit there and evaluate that. 17 Q. Okay. Let me ask you, this search warrant 18 was intended to be performed at 5:00 a.m.; correct? 19 A. Yes. 20 Q. Who made that decision? 21 A. The assistant team leader, Jake Warner, 22 decided this would be a good opportunity, at that 23 time frame, to do it at that point, and then as well 24 as Sergeant Backman reviewing it and saying yes. 25 Q. And then Lieutenant O'Daniel also reviewed</p>	<p style="text-align: right;">49</p> <p>1 throughout the day. So at 5:00 a.m., it's less 2 active. So we want to keep people out. That was 3 the reason why. 4 Q. Was it part of the purpose that you wanted 5 to do this SWAT mission at a time of day when you 6 thought people inside the apartment were likely to be 7 asleep? 8 A. Either asleep or less active. 9 Q. Okay. And that would make it easier to 10 surprise and overwhelm them with the CET? 11 A. Correct. 12 Q. And so was that formal or informal policy of 13 LVMPD, at that time, to perform search warrants on a 14 CET at those times of day, for that purpose? 15 A. That's not like a SOP where it's like we do 16 it at a certain time frame to, like you said: 17 "They're going to be asleep; let's surprise them, 18 overwhelm them," that's not in our standard 19 operating procedures. 20 Q. Well, why isn't it? Is that because it's 21 more dangerous to do it that way? 22 MR. ANDERSON: Objection. Form. 23 THE WITNESS: I don't think it's more 24 dangerous to do it at that time. 25 ///</p>

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<p style="text-align: right;">50</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. Why, for this particular operation, was that</p> <p>3 selected then?</p> <p>4 A. Because it's less opportunity for people on</p> <p>5 the outside. They're not going to be as active.</p> <p>6 That complex, like I said, is very busy, and you</p> <p>7 keep people out that way.</p> <p>8 Q. Well, why not -- why not perform it at</p> <p>9 9:00 p.m. then?</p> <p>10 A. That's when it starts to become busy, and</p> <p>11 especially on Nellis. That's where people are</p> <p>12 heading to work.</p> <p>13 Q. Okay. How has the policies and procedures</p> <p>14 for SWAT and CET entry, particularly as it relates to</p> <p>15 search warrants, changed since the Williams'</p> <p>16 incident?</p> <p>17 A. So it would be accompanied with a No-Knock</p> <p>18 Warrant.</p> <p>19 Q. I'm sorry?</p> <p>20 A. For now?</p> <p>21 Q. For --</p> <p>22 A. From this incident?</p> <p>23 Q. Yeah, as a result of this incident.</p> <p>24 A. So you're going to, in order to conduct a</p> <p>25 CET, you're going to need a No-Knock Warrant.</p>	<p style="text-align: right;">52</p> <p>1 conversation you had with Lieutenant O'Daniel?</p> <p>2 A. No.</p> <p>3 Q. Okay. So there was never any specific</p> <p>4 verbal or written retraining on the new policy?</p> <p>5 A. No. As far as the policy that is now in</p> <p>6 effect, that we will not be utilizing a CET for a</p> <p>7 Knock and Announce, that wasn't in effect or took --</p> <p>8 took effect until I was gone.</p> <p>9 Q. So to the best of your understanding, when</p> <p>10 would -- when did that policy change happen?</p> <p>11 A. I don't know. Because I know it was</p> <p>12 recent, but I've been gone for about seven months.</p> <p>13 Q. Okay. You mentioned earlier in your</p> <p>14 testimony that you felt a Surround and Callout, or a</p> <p>15 SACO, was not feasible for this particular apartment;</p> <p>16 but due to the policy change, if this warrant were</p> <p>17 served today, you would have to use SACO, wouldn't</p> <p>18 you?</p> <p>19 A. You would have to, or you would find a</p> <p>20 different way or just not serve the search warrant.</p> <p>21 Q. Right. But when we talk about what would</p> <p>22 happen with this warrant today, if you -- you could</p> <p>23 not do a CET, if it was done today?</p> <p>24 A. Correct.</p> <p>25 MR. ANDERSON: Objection. Form.</p>
<p style="text-align: right;">51</p> <p>1 Q. So as we sit here today, to your knowledge,</p> <p>2 CET is reserved only for no-knock warrants?</p> <p>3 A. Correct.</p> <p>4 Q. And when did that change?</p> <p>5 A. After this incident. I don't know when it</p> <p>6 was implemented though, like a time frame.</p> <p>7 Q. Do you believe it changed specifically</p> <p>8 because of the Williams' incident?</p> <p>9 A. I believe so.</p> <p>10 Q. And why do you believe that?</p> <p>11 A. Because the individual that was killed, the</p> <p>12 family that is in the process of suing it, that's</p> <p>13 the reason why.</p> <p>14 Q. Okay. Was there ever any training or</p> <p>15 instruction provided by Metro, to SWAT on the new</p> <p>16 policy then?</p> <p>17 A. We would talk about it, as far as the</p> <p>18 policy that was implemented with Lieutenant</p> <p>19 O'Daniel, and then make sure that all the guys knew</p> <p>20 about it.</p> <p>21 Q. And so what did Lieutenant O'Daniel then</p> <p>22 relay to you about the policy change?</p> <p>23 A. As far as at what time frame though?</p> <p>24 Q. Well, after the Williams' incident.</p> <p>25 In other words, do you remember a specific</p>	<p style="text-align: right;">53</p> <p>1 THE WITNESS: So as it stands today, yeah,</p> <p>2 you wouldn't be able to utilize a CET for this type</p> <p>3 of search warrant, unless you get a no-knock service</p> <p>4 of a warrant.</p> <p>5 BY MR. BREEDEN:</p> <p>6 Q. Can you explain to me what calling a</p> <p>7 "tactical" is in SWAT jargons.</p> <p>8 A. So calling "tactical," that can be utilized</p> <p>9 during a Controlled Entry Tactic, and that is</p> <p>10 slowing the momentum or stopping the momentum of</p> <p>11 your team, and that's when you have some type of</p> <p>12 recognition or that a danger is occurring. So</p> <p>13 preventing your team from moving further down, say,</p> <p>14 a hallway. So you're stopping that momentum. Your</p> <p>15 officers are taking up cover and positions of</p> <p>16 advantage, and so once that occurs, then you gather</p> <p>17 the intel. So who called the tactical and -- and</p> <p>18 what are the reasons why. So gather the intel, work</p> <p>19 the problem; utilize your resources, so get your</p> <p>20 shields up, if you need to.</p> <p>21 Calling a tactical, anybody can call it.</p> <p>22 So once it's called, the momentum stops. Everybody</p> <p>23 reverberates that tactical call. So an example</p> <p>24 would be is if you make entry into a residence, you</p> <p>25 see a subject that was on the couch take off down</p>



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<p style="text-align: right;">54</p> <p>1 the hallway and ducks into the last room, we're</p> <p>2 going to call "tactical" because maybe a continued</p> <p>3 movement down there would be dangerous for your</p> <p>4 team. Maybe the subject's back there grabbing a</p> <p>5 firearm. He's doing something that could harm your</p> <p>6 team, harm others, or harm that person who's back</p> <p>7 there.</p> <p>8 So, again, that's where you work the</p> <p>9 problem. You could sit there, once you have it</p> <p>10 safely contained. As far as on the outside, you</p> <p>11 give announcements. Maybe that person does come</p> <p>12 out, or if you hear maybe a gun rack or something</p> <p>13 like that, we can slowly back the team out and work</p> <p>14 it from the outside. So that would be an example of</p> <p>15 calling a tactical. And so once we do call a</p> <p>16 tactical, that's when that spree, that speed,</p> <p>17 surprise, and overwhelming action has stopped.</p> <p>18 We're not going to reengage that CET, at that point,</p> <p>19 and that is your tactical call.</p> <p>20 Q. On January 10th, 2022, during the SWAT</p> <p>21 mission at 3050 South Nellis Boulevard, did you ever</p> <p>22 hear any officer, at any time, call a tactical?</p> <p>23 A. Once the shooting was over, the tactical</p> <p>24 call came out.</p> <p>25 Q. Okay. So prior to the fatal shooting of</p>	<p style="text-align: right;">56</p> <p>1 A. No.</p> <p>2 Q. Do you agree with me that in, you know, what</p> <p>3 I would call the -- the black or the "blackout"</p> <p>4 version, it's more difficult to see the word "SWAT"</p> <p>5 or "Police" on the uniform?</p> <p>6 MR. ANDERSON: Objection. Form. Go ahead.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. BREEDEN:</p> <p>9 Q. Would there be any reason why SWAT officers</p> <p>10 wouldn't want to clearly identify themselves as</p> <p>11 police officer?</p> <p>12 A. Don't know why.</p> <p>13 Q. Certainly wouldn't be a reason on a Knock</p> <p>14 and Announce Warrant, would there?</p> <p>15 A. No.</p> <p>16 Q. Okay. Are you saying, then, that the dark</p> <p>17 or the blackout uniforms were the only uniforms in</p> <p>18 use at that time?</p> <p>19 A. Those are your uniforms that we had, that</p> <p>20 were supplied to us, along with the patches that</p> <p>21 were supplied to us.</p> <p>22 MR. BREEDEN: Okay. Can you push that my</p> <p>23 direction.</p> <p>24 Just for the record, we could attach it as</p> <p>25 an exhibit, if opposing counsel wants. But I was</p>
<p style="text-align: right;">55</p> <p>1 Mr. Williams, no tactical was ever called?</p> <p>2 A. Prior to the shooting, no.</p> <p>3 Q. Okay. And then I assume someone called for</p> <p>4 a tactical just because, at that point, it appears</p> <p>5 there's been a fatality and so somebody called it?</p> <p>6 A. Because of the shooting that occurred, we</p> <p>7 called a tactical.</p> <p>8 Q. Do you know which officer was the first to</p> <p>9 call the tactical?</p> <p>10 A. Don't know.</p> <p>11 Q. During the SWAT mission, and I brought some</p> <p>12 pictures to illustrate the point, Metro officers</p> <p>13 appear to be wearing what I would call "blackout" or</p> <p>14 dark SWAT and Police information on their uniform as</p> <p>15 opposed to an alternate uniform where there's a</p> <p>16 bright gold.</p> <p>17 Who made the decision that the darker or</p> <p>18 blackout uniforms would be used?</p> <p>19 A. Don't know. When I came up, we were</p> <p>20 utilizing the black. We also had a -- like a,</p> <p>21 almost like a purple, and then we ended up going to</p> <p>22 these. So I don't know. I wasn't on SWAT, at that</p> <p>23 time, for that.</p> <p>24 Q. So at no time that you served on SWAT they</p> <p>25 were using the -- the brighter gold lettering?</p>	<p style="text-align: right;">57</p> <p>1 showing the witness what's been Bates-labeled as</p> <p>2 MELTON-14 and 15. There's just some pictures of</p> <p>3 alternate SWAT uniforms on those pages.</p> <p>4 BY MR. BREEDEN:</p> <p>5 Q. Let's talk about Knock and Announce.</p> <p>6 What are the requirements under the law of</p> <p>7 Knock and Announce?</p> <p>8 A. Reasonable amount of time, as well as</p> <p>9 you're letting the individual comply or submit.</p> <p>10 Q. And did you receive training on Knock and</p> <p>11 Announce as part of your SWAT training?</p> <p>12 A. Yes.</p> <p>13 Q. Who trained you on it?</p> <p>14 A. We had classes, PowerPoints, that were</p> <p>15 taught throughout the time frame.</p> <p>16 Q. Okay. And, specifically, what were you</p> <p>17 taught about the amount of time that's reasonable to</p> <p>18 wait after the Knock and Announce?</p> <p>19 A. So as far as reasonable amount of time,</p> <p>20 what you're going to be doing is considering the --</p> <p>21 who you're dealing with, the location, size of the</p> <p>22 structure, the violent history. You're also taking</p> <p>23 in consideration access to weapons. So all those</p> <p>24 factors come into play when you're looking at what</p> <p>25 is a reasonable amount of time and then as</p>



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<p>58</p> <p>1 accompanied with the submitting or the complying.  2 Q. Have you ever heard any time limit, like  3 1 minute or 30 seconds or 10 seconds, that's like a  4 rule of thumb to be applied?  5 A. So you're not going to find any hard fast  6 rule. I know certain cases, they've talked about a  7 10 second rule on up, as far as, say, 30 seconds.  8 But, again, when it comes to a hard fast rule on --  9 on which one we're going to utilize, we went with a  10 reasonable amount of time.  11 Q. Okay. So has -- has there ever been any  12 formal or informal policy at Metro regarding like a  13 minimum number of seconds you should wait?  14 (Reporter clarification.)  15 BY MR. BREEDEN:  16 Q. A minimum number of seconds you should wait  17 after knocking and announcing before using force.  18 A. Prior to me coming up to SWAT, they  19 utilized a 10 Second Rule, and then when I was  20 there, we and Melanie O'Daniel ended up changing it  21 to a reasonable amount of time.  22 Q. Okay. So the 10 Second Rule, was that  23 actually in writing?  24 A. Yes.  25 Q. Okay. And to your knowledge, Melanie</p>	<p>60</p> <p>1 there as well. So we need a large area that we can  2 put all of our vehicles, and then we were in that  3 parking lot of Sam's Town. So we're pretty much  4 concealed in there.  5 Q. Is it just a coincidence that the underlying  6 murder that was being investigated also happened at  7 Sam's Town?  8 A. Coincidence. It was -- what we do is we  9 take in consideration what would be a good route as  10 well. So from that point, it's a good location,  11 which it being at the Sam's Town, in that parking  12 garage, and from there, we can just exit and go  13 straight up Nellis.  14 Q. Did you conduct any portion of the -- the  15 briefing?  16 A. No.  17 Q. Who did?  18 A. That was going to be the assistant team  19 leader, Jake Warner, and then he was working that  20 with Sergeant Backman.  21 Q. Okay. Did any of the homicide people speak  22 as well?  23 A. They did.  24 Q. Would that be Detective Grimmert?  25 A. Yes.</p>
<p>59</p> <p>1 O'Daniel personally made the decision to change that?  2 A. I believe she ended up changing it.  3 Q. Okay. Why?  4 A. I don't -- I don't know.  5 Q. Okay. Prior to this SWAT mission -- I don't  6 know, I may not use the right terminology. But there  7 was a "staging" or a "briefing" at the parking lot of  8 the Sam's Town Hotel &amp; Casino; right?  9 A. Correct.  10 Q. I'm kind of curious, what's the reason  11 Sam's Town was chosen?  12 A. What we ended up using or the reason we  13 used Sam's Town is we -- we want a, kind of a large  14 structure that can kind of conceal us. So if we're  15 serving search warrants within a certain area that  16 is a high crime area and if they see SWAT trucks,  17 the armor, then everybody within that neighborhood  18 starts letting other people know. So it could tip  19 that person off.  20 So what we do is we try to select areas  21 that have a large parking lot because there is quite  22 a bit of vehicles that we -- that we bring. Our  23 own -- the -- our own work trucks as well as the --  24 the armor. Plus we have the Search and Rescue comes  25 out with us. You also have detectives who come out</p>	<p>61</p> <p>1 Q. Is there anyone you could recall, other than  2 Detective Grimmert?  3 A. You had gang detectives there. Edgar  4 Nahum.  5 Q. How long was the briefing in terms of  6 minutes?  7 A. I'd -- I'd be guessing. Maybe 20 minutes.  8 Q. I've not seen any body camera video of  9 briefing. Are you aware of anybody who had their  10 body-worn camera activated during the briefing?  11 A. No. Because that's on our helmets.  12 Q. Well, why would it not be activated during a  13 briefing?  14 A. Because we don't record the briefings, and  15 those are -- those recording devices are attached to  16 our helmets.  17 Q. Well, I mean, it's sort of part of your  18 investigation or mission, the briefing. So why  19 wouldn't a record be made of that?  20 A. It's on paper.  21 Q. You mean the IAP?  22 A. IAP, as well as the -- the draw as well.  23 Q. Yeah, so when you refer to "the draw," I've  24 seen a photograph somewhere that there's like a giant  25 piece of paper, and there's a bunch of handwritten</p>

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<p style="text-align: right;">62</p> <p>1 notes on it. Is that what you're referring to?</p> <p>2 A. Correct.</p> <p>3 Q. So who did the draw? Whose handwriting is</p> <p>4 on that?</p> <p>5 A. That is going to be the recon team. So</p> <p>6 they create the draw, and then the assistant team</p> <p>7 leader, Jake Warner, is going to position people as</p> <p>8 far as the lineup goes, and then where the</p> <p>9 containment positions are as well.</p> <p>10 Q. What happened to the draw? Where is it</p> <p>11 today?</p> <p>12 A. It should have been just photographed and</p> <p>13 then put into -- on base.</p> <p>14 Q. Would it physically be destroyed, or is it</p> <p>15 sitting somewhere? Do you know?</p> <p>16 A. I don't know what they do with it, if it's</p> <p>17 just destroyed, but we have a photo, photograph of</p> <p>18 it.</p> <p>19 Q. Okay. Who took that photograph?</p> <p>20 A. It would be the person who had the camera.</p> <p>21 I don't know who it was.</p> <p>22 Q. Okay. You don't know if it was Backman or</p> <p>23 Warner or another officer?</p> <p>24 A. No.</p> <p>25 Q. How long have you known Lieutenant O'Daniel?</p>	<p style="text-align: right;">64</p> <p>1 being at South Central Area Command when I was</p> <p>2 there.</p> <p>3 Q. How many SWAT missions were you ever on</p> <p>4 where Lieutenant O'Daniel was onsite, onsite when the</p> <p>5 mission was performed?</p> <p>6 A. Quite a few.</p> <p>7 Q. Okay. Was that typical for her to be</p> <p>8 onsite?</p> <p>9 A. For barricades, hostage rescues, yes.</p> <p>10 For search warrants, that would be a "yes"</p> <p>11 and a "no" to where she would only come out if there</p> <p>12 was a high likelihood that like the subject would be</p> <p>13 fighting us or resisting us or it was a major case</p> <p>14 is what it would be for.</p> <p>15 Q. Was she ever a ser- -- a SWAT sergeant</p> <p>16 before she was made lieutenant?</p> <p>17 A. No.</p> <p>18 Q. Was she ever one of the SWAT operators, like</p> <p>19 somebody in the line, before she became SWAT</p> <p>20 lieutenant?</p> <p>21 A. No.</p> <p>22 Q. Are you aware of anyone else who applied for</p> <p>23 the position of SWAT lieutenant and wasn't selected?</p> <p>24 A. No.</p> <p>25 Q. Okay. So when the job of SWAT lieutenant</p>
<p style="text-align: right;">63</p> <p>1 A. I've worked a short period of time at</p> <p>2 South Central when I was new, not with her. I knew</p> <p>3 she was on another squad. I just knew her by face,</p> <p>4 by name; and then when I went to SWAT, it was that</p> <p>5 time frame, from the July '19 until she left.</p> <p>6 Q. When did she leave?</p> <p>7 A. I don't know the exact date.</p> <p>8 Q. Do you know why she left?</p> <p>9 A. I would say for personal reasons. She had</p> <p>10 time to retire.</p> <p>11 Q. Did she feel that she might be terminated if</p> <p>12 she didn't retire?</p> <p>13 MR. ANDERSON: Objection. Form.</p> <p>14 THE WITNESS: I don't know.</p> <p>15 BY MR. BREEDEN:</p> <p>16 Q. Are you aware of any discipline, reprimand,</p> <p>17 or contact that she received because of the Williams'</p> <p>18 incident?</p> <p>19 A. No.</p> <p>20 Q. What -- when you first met her, what squad</p> <p>21 was she on, if not SWAT?</p> <p>22 A. Your -- say that again.</p> <p>23 Q. When you first met her, was she assigned to</p> <p>24 SWAT, SWAT?</p> <p>25 A. No. When I first met her, I remember her</p>	<p style="text-align: right;">65</p> <p>1 comes open, you're not aware of anybody, other than</p> <p>2 Lieutenant O'Daniel, who applied?</p> <p>3 A. From what I remember is the position that</p> <p>4 she held was over the homeland saturation team, and</p> <p>5 they were the backup lieutenant to SWAT, and so she</p> <p>6 was getting those repetitions in that now the</p> <p>7 current lieutenant, I believe, ended up leaving, and</p> <p>8 then she filled that position.</p> <p>9 Q. Okay. But are you aware of anybody else who</p> <p>10 wanted the position or applied for it?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. Did you think she was the most</p> <p>13 qualified person for that position?</p> <p>14 A. She had the reps, yes.</p> <p>15 Q. Okay. What did you think of her as a</p> <p>16 lieutenant, her ability?</p> <p>17 MR. ANDERSON: Objection to form. Go ahead.</p> <p>18 THE WITNESS: It was good.</p> <p>19 BY MR. BREEDMAN:</p> <p>20 Q. Do you think that the fact that she was</p> <p>21 female played a role in her getting that position?</p> <p>22 MR. ANDERSON: Objection to form.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MR. BREEDEN:</p> <p>25 Q. No? At any point, prior to the SWAT</p>



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<p style="text-align: right;">66</p> <p>1 mission, did Detective Grimmert tell you that there</p> <p>2 was probable cause to make an arrest?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And why wasn't there an arrest</p> <p>5 warrant then?</p> <p>6 A. Because we had a search warrant for that</p> <p>7 residence. He was listed in the PC statement, as</p> <p>8 far as our two subjects that were involved, which is</p> <p>9 Rembert and Fisher.</p> <p>10 Q. Okay. Do you believe better reconnaissance</p> <p>11 or surveillance could have occurred on this mission?</p> <p>12 MR. ANDERSON: Objection. Form.</p> <p>13 THE WITNESS: We -- we could have done or</p> <p>14 homicide could have done more. But, again, we're</p> <p>15 limited on a time frame of dealing who -- with the</p> <p>16 subject because it is kind of the, I wouldn't</p> <p>17 necessarily say it's exigent circumstances, but you</p> <p>18 have someone who is a violent individual that</p> <p>19 committed a homicide, and those two subjects, the</p> <p>20 intel that we had, were in those apartments.</p> <p>21 And there was prior incidences leading up</p> <p>22 to that to where, even in that specific location at</p> <p>23 3050 Nellis, there was prior incidences of shootings</p> <p>24 that were occurring, and those two subjects were</p> <p>25 involved.</p>	<p style="text-align: right;">68</p> <p>1 was wearing an ankle monitor?</p> <p>2 A. Yes.</p> <p>3 Q. So pretty easy to figure out where that</p> <p>4 gentleman is, isn't it?</p> <p>5 A. Correct.</p> <p>6 Q. And it wasn't that apartment; right?</p> <p>7 A. No. So prior to us serving the search</p> <p>8 warrant, they gave us an update saying Fisher was</p> <p>9 not pinging inside that apartment.</p> <p>10 Q. Well, what was your understanding then about</p> <p>11 whether there could be other people inside the</p> <p>12 apartment -- women, children, innocent people?</p> <p>13 A. We were given no information that there was</p> <p>14 any children, no elderly, no dogs, as far as at that</p> <p>15 apartment. We were given information that this was</p> <p>16 a flophouse, indications of, you know, it's a drug</p> <p>17 house, violent individuals inside, as well as access</p> <p>18 to weapons. There was evidence of a homicide that</p> <p>19 was inside that residence.</p> <p>20 Q. Well, let's -- let's talk about the access</p> <p>21 to weapons. I mean, it's easy to say: "Oh, I think</p> <p>22 this guy is a drug dealer so he probably has a gun";</p> <p>23 right? That's just kind of a general statement.</p> <p>24 For the particular time that you were there</p> <p>25 on January 10th of 2022, in that morning, did anyone</p>
<p style="text-align: right;">67</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. All right. But on the morning in question</p> <p>3 that this happened, SWAT had no idea who was inside;</p> <p>4 right?</p> <p>5 A. We had intel that those two subjects, which</p> <p>6 was Rembert and Fisher, were inside. And then right</p> <p>7 before the brief, they gave an update saying Fisher,</p> <p>8 who was on an ankle monitor, was not in there.</p> <p>9 Q. Okay. So who specifically told you that</p> <p>10 they believed that the subjects were inside?</p> <p>11 A. Homicide detectives were saying that, that</p> <p>12 those subjects were inside. That was the intel that</p> <p>13 they had.</p> <p>14 Q. Okay. And, you know, I just ask a very</p> <p>15 specific question. Were -- were they -- was it your</p> <p>16 understanding that they were telling you they had</p> <p>17 specific information that, at that time, when SWAT</p> <p>18 was going to arrive, they were inside or just that,</p> <p>19 generally, they believe they might be inside?</p> <p>20 A. Per the IAP, also listed in the search</p> <p>21 warrant is the family members who were indicating</p> <p>22 that that is the apartment that Rembert and Fisher</p> <p>23 were in. So that was the information that we were</p> <p>24 given.</p> <p>25 Q. Were you aware that one of those suspects</p>	<p style="text-align: right;">69</p> <p>1 actually see any weapons or firearms from prior to</p> <p>2 entry of the apartment?</p> <p>3 A. Prior to entry, no.</p> <p>4 Q. Okay. Also, this particular apartment had a</p> <p>5 brass wrap on the front door; right?</p> <p>6 A. Correct.</p> <p>7 Q. And that affects what you do as SWAT because</p> <p>8 that means it's going to be much harder to do a</p> <p>9 forced entry on the front door, knock it down; right?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Do you think that was a failure of</p> <p>12 surveillance or reconnaissance, not to notice that</p> <p>13 there was a brass wrap prior to when you're actually</p> <p>14 there in front of the door?</p> <p>15 MR. ANDERSON: Objection to form. Go ahead.</p> <p>16 THE WITNESS: So going up to the residence,</p> <p>17 obviously that would have been a good indicator.</p> <p>18 But I recognize that, during the recon, found out</p> <p>19 later that -- again, that's going back to how busy</p> <p>20 of a time frame that apartment is with those</p> <p>21 individuals, a bunch of individuals walking through</p> <p>22 there. I know that Officer Hoskins tried to get a</p> <p>23 good look at that door and was almost confronted by</p> <p>24 subjects that were walking into that apartment. So</p> <p>25 he ended up walking by.</p>



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<p style="text-align: right;">70</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. Well, okay. But don't you think that would</p> <p>3 be part of basic reconnaissance, if your IAP says</p> <p>4 we're going to use a battering device to knock down</p> <p>5 the front door, to know whether that's a reinforced</p> <p>6 door?</p> <p>7 A. Yes.</p> <p>8 MR. BREEDEN: Okay. You know, I think I'm</p> <p>9 at a decent stopping point.</p> <p>10 Let's take a five minute break.</p> <p>11 MR. BREEDEN: Going off the record at</p> <p>12 10:21 a.m.</p> <p>13 (Pause in the proceedings.)</p> <p>14 THE VIDEOGRAPHER: We're back on the</p> <p>15 record. Time is 10:33 a.m.</p> <p>16 BY MR. BREEDEN:</p> <p>17 Q. All right. Sergeant Findley, I want to talk</p> <p>18 a little bit about NFDDs or Noise Flash Diversionary</p> <p>19 Devices. Is it your understanding that SWAT has</p> <p>20 total discretion to use them whenever they wish?</p> <p>21 MR. ANDERSON: Objection. Form.</p> <p>22 THE WITNESS: So we don't just use them</p> <p>23 whenever we wish. There's going to be a certain</p> <p>24 purpose for utilizing a NFDD.</p> <p>25 ///</p>	<p style="text-align: right;">72</p> <p>1 Q. So "Option" implies to me that they may or</p> <p>2 may not be used. Is that what you mean?</p> <p>3 A. No.</p> <p>4 Q. Oh, okay. So how do you use that term?</p> <p>5 A. That's the way it's written on our card is</p> <p>6 called a, just our "options" that we have. I don't</p> <p>7 know. I wasn't in charge of making the verbiage for</p> <p>8 that.</p> <p>9 Q. Okay. So when it says Option 2, it wasn't</p> <p>10 meant an option that -- that somebody had discretion</p> <p>11 whether or not they would be used; they were</p> <p>12 preplanned to be used?</p> <p>13 A. Preplanned. And then, again, whoever's</p> <p>14 deploying them, especially on the insertion, you</p> <p>15 have to make sure it's safe to do so. So in that</p> <p>16 instant, you put it through the window, up high,</p> <p>17 into the ceiling.</p> <p>18 Q. And those had been preplanned to be used on</p> <p>19 the IAP; correct?</p> <p>20 A. Not on the IAP, just on the tactical plan.</p> <p>21 Q. Okay. But Lieutenant O'Daniel had approved</p> <p>22 NFDDs, didn't she?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And would Warner and Backman have</p> <p>25 also been aware of that and approved it?</p>
<p style="text-align: right;">71</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. What was the purpose for using NFDDs on</p> <p>3 January 10th of 2022?</p> <p>4 A. So we used a stun stick, and that was going</p> <p>5 to be inserted into the window, on that fourth side</p> <p>6 of the residence, and then we used a nine banger on</p> <p>7 that fourth side as well.</p> <p>8 Q. Yeah, but what's the purpose of those?</p> <p>9 A. It's to distract, disorient the people that</p> <p>10 are involved.</p> <p>11 Q. Okay. And we can agree that those NFDDs,</p> <p>12 they were deployed before anyone said or did anything</p> <p>13 or moved or reacted at all inside the apartment;</p> <p>14 right?</p> <p>15 A. I don't know.</p> <p>16 Q. Okay. Well, was it planned that they would</p> <p>17 be automatically deployed, or was somebody in charge</p> <p>18 of whether or not they were deployed?</p> <p>19 A. Yeah, so whoever's in charge of the stun</p> <p>20 stick, once they insert it, make sure that you</p> <p>21 clear, visually clear, and then you can set the</p> <p>22 distract off.</p> <p>23 Q. Now, in your CIRT interview, you refer to</p> <p>24 NFDDs as an "Option 2." Do you recall that?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">73</p> <p>1 A. Correct. So they developed the plan, which</p> <p>2 was Officer Warner, Sergeant Backman, and then they</p> <p>3 relayed that information to Lieutenant O'Daniel, who</p> <p>4 gave the authorization for that.</p> <p>5 Q. Okay. If this is a Knock and Announce</p> <p>6 Warrants, why are we using NFDDs at all?</p> <p>7 A. We're using NFDDs as a distraction device.</p> <p>8 So depending on who the individual it is inside, if</p> <p>9 we're dealing with a violent individual homicide</p> <p>10 warrant, in this case, who does have those access</p> <p>11 for weapons, then what we want to do is to, in a</p> <p>12 way, distract that person so if they do decide to</p> <p>13 take up arms and try to shoot at officers coming</p> <p>14 through the door, it's going to disrupt their</p> <p>15 OODA loop and take away from that fine motor skills</p> <p>16 of doing fire.</p> <p>17 Q. Well, why are you trying to distract anyone</p> <p>18 on the inside of the apartment if you're required to</p> <p>19 give that person time to wake up and go to the front</p> <p>20 door and ascertain it's police and provide them</p> <p>21 admittance so -- into the apartment?</p> <p>22 A. So give them a reasonable amount of time.</p> <p>23 We give them announcements. We give them</p> <p>24 opportunity to comply, to surrender within that time</p> <p>25 frame. So if they do decide to do the opposite</p>

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<p style="text-align: right;">74</p> <p>1 which, in a lot of cases, we deal with people who</p> <p>2 are unreasonable. So what we do is, to prevent them</p> <p>3 from doing any type of harm, then we use a distract.</p> <p>4 And then in this case, we ended up doing a distract</p> <p>5 to the inside, up high.</p> <p>6 Q. So it was preplanned, wasn't it, during the</p> <p>7 briefing, that Officer Bertuccini would have the</p> <p>8 stun stick and then immediately upon the end of the</p> <p>9 second announcement, he would break the rear window</p> <p>10 and deploy the stun stick inside the apartment?</p> <p>11 Wasn't that preplanned?</p> <p>12 A. Correct.</p> <p>13 Q. And so by preplanning that, how does that</p> <p>14 give somebody time to comply and wake up and walk to</p> <p>15 the door and open the door and allow police to come</p> <p>16 inside?</p> <p>17 A. Well, again, your -- your question is kind</p> <p>18 of loaded to where you're saying that they will</p> <p>19 comply; and, again, what we deal with, people who</p> <p>20 are unreasonable, who are not going to comply.</p> <p>21 "Complying" in my regards is to -- they don't</p> <p>22 necessarily have to come to the door. "Complying"</p> <p>23 means sitting in place with your hands up.</p> <p>24 "Complying" means announcing "Hey, I'm here." That</p> <p>25 is compliance to us. So they don't necessarily have</p>	<p style="text-align: right;">76</p> <p>1 couch, walk five feet to the door. In six seconds,</p> <p>2 you can sit there and say "Hey, I'm complying. I'm</p> <p>3 here." "Compliance" is, like I said, sitting still</p> <p>4 with your hands up. "Compliance" isn't, to me,</p> <p>5 where you grab a gun and start shooting.</p> <p>6 BY MR. BREEDEN:</p> <p>7 Q. So --</p> <p>8 A. He also had 17 seconds to get up and walk</p> <p>9 to the door if, if he wanted to, to comply. But,</p> <p>10 again, we deal with people who are not reasonable</p> <p>11 and will not cooperate.</p> <p>12 Q. So you had preplanned this operation with</p> <p>13 the assumption that people inside the apartment would</p> <p>14 not comply; right?</p> <p>15 A. We --</p> <p>16 MR. ANDERSON: Objection. Form. Go ahead.</p> <p>17 THE WITNESS: So what we do is work off of</p> <p>18 experience. So a lot of these plans are what type</p> <p>19 of experience we have with dealing with this type of</p> <p>20 situation. We're dealing with someone who is wanted</p> <p>21 for murder, who has those access to weapons. So</p> <p>22 what we do is try to plan the safest route, to have</p> <p>23 those contingency plans in place. So if the person</p> <p>24 does come to the door with a gun, we have that</p> <p>25 option to distract them.</p>
<p style="text-align: right;">75</p> <p>1 to come to the door. Compliance is exactly that,</p> <p>2 they can sit in place and with their hands up.</p> <p>3 That's compliance.</p> <p>4 Q. Okay. Well, Jasmine King appears to have</p> <p>5 been trying to comply and let officers into her</p> <p>6 living structure, and she was injured when the</p> <p>7 explosives went off in that case; right?</p> <p>8 A. Correct. And we don't know that's what</p> <p>9 she's trying to do.</p> <p>10 Q. And you realize, don't you, that -- that</p> <p>11 it's unlawful or it violates Knock and Announce if</p> <p>12 people are not given a reasonable amount of time to</p> <p>13 come to the front door and allow the police entry?</p> <p>14 MR. ANDERSON: Objection.</p> <p>15 BY MR. BREEDEN:</p> <p>16 Q. Is that your understanding?</p> <p>17 MR. ANDERSON: Objection. Form. Answer.</p> <p>18 THE WITNESS: So my understanding is a</p> <p>19 reasonable amount of time. So what is a reasonable</p> <p>20 amount of time for, in this instance, Isaiah</p> <p>21 Williams to come to the door, who's sitting on the</p> <p>22 couch, who's five feet away? Again, I don't --</p> <p>23 didn't know that, but you're saying six seconds, and</p> <p>24 that's just on the assertion; right?</p> <p>25 So in six seconds, you can get up off the</p>	<p style="text-align: right;">77</p> <p>1 So, again, the law says, well, giving the</p> <p>2 person a reasonable amount to comply, to come to the</p> <p>3 door. But, again, in our world that we deal with,</p> <p>4 we don't deal with reasonable people. We deal with</p> <p>5 violent individuals who will do quite the opposite.</p> <p>6 So we have to have those mitigating factors,</p> <p>7 those -- those contingency plans to prevent that to</p> <p>8 be safe.</p> <p>9 BY MR. BREEDEN:</p> <p>10 Q. Are you saying then that you think</p> <p>11 Knock and Announce doesn't require you -- because you</p> <p>12 talk about compliance. Are you saying you think</p> <p>13 that's satisfied, not by an amount of time for</p> <p>14 somebody to come to the front door and allow entry</p> <p>15 but enough time for somebody to yell out "Okay. Come</p> <p>16 in? Something like that?</p> <p>17 A. Correct. In my reasonable amount of time,</p> <p>18 it doesn't take that long to say "Okay. I give up.</p> <p>19 I'm coming to the door"; or to comply, just to stand</p> <p>20 there, sit there, have their hands up. That's</p> <p>21 compliance.</p> <p>22 Q. Well, so since much of this, of what was</p> <p>23 done was preplanned in terms of the use of force,</p> <p>24 how much time was preplanned to allow any occupant</p> <p>25 inside that apartment to come to the front door,</p>



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<p>78</p> <p>1 ascertain it was police with a warrant, and provide 2 them entry? 3 A. Sounds like it was, from videotapes, all 4 that, it was 17 seconds to the time of entry. 5 Q. Well, now, that -- that's very interesting 6 that -- that you say 17 seconds. I think the video 7 is very clearly going to disprove that. 8 A. Uh-huh. 9 Q. But the -- the time that was planned, it was 10 planned that, immediately on the end of the second 11 announcement, the -- the back window would break and 12 the stun stick would be inserted and simultaneously 13 at the front door, that would be knocked down with a 14 battering device. That's what the plan was; right? 15 A. Correct. 16 Q. Okay. So as fast as I can yell "Police, 17 search warrant, police search warrant," (Counsel 18 snaps fingers), that was the preplanned amount of 19 time; right? 20 MR. ANDERSON: Objection to form. 21 THE WITNESS: It's longer than that because 22 he gave out the entire address. 23 BY MR. BREEDEN: 24 Q. Okay. So going to ask you some more 25 questions specifically on Knock and Announce.</p>	<p>80</p> <p>1 be. Are you talking seconds? 2 Q. At least seconds. 3 A. I could see it being for a couple seconds, 4 yeah. 5 Q. Okay. And would you agree with me that 6 there's also like a physical element to it, like you 7 feel a pressure wave? 8 A. You'll have a little bit of a pressure 9 wave. 10 Q. Yeah. And before a stun stick is deployed, 11 the person deploying it is supposed to make sure that 12 the area is clear, right, because we don't want it to 13 be deployed too close to a person? 14 A. Correct. 15 Q. And what's your understanding of how far 16 "clear" is? Does "clear" mean no one in the same 17 room? 18 A. Immediate area, within like a three-foot 19 radius. 20 Q. So you think it's three feet? 21 A. Immediate area, yeah. 22 Q. So you think it's safe to deploy one of 23 those within three feet of somebody? 24 A. It's going to be up high. That was the 25 plan, into the ceiling.</p>
<p>79</p> <p>1 All right. Well, actually, first of all, let me 2 back-up and finish with the NFDDs. 3 Okay. The stun stick, have you ever been in 4 the same room when a stun stick was deployed? 5 A. Yes. 6 Q. Okay. Would you agree with me that it's 7 quite bright? 8 A. If you're looking at it, yes. 9 Q. Would you agree to me that, even if your 10 eyes are closed, you're -- you're going to see a 11 bright flash? 12 A. You'll see not obviously a bright flash, 13 but you're going to have a little bit of a flash, 14 yes. 15 Q. Okay. And if your eyes happened to be open, 16 would you agree with me that that, that would be 17 blinding? 18 A. If you're looking at it, you'll have a 19 bright spot for momentarily, few seconds. 20 Q. Yeah. And would you agree with me that it's 21 quite loud when it deploys? 22 A. Yes. 23 Q. Would you agree with me that it's so loud 24 that it would temporarily impair your hearing? 25 A. I don't know how long "temporarily" would</p>	<p>81</p> <p>1 Q. Well, doesn't matter if it's up high or up 2 low. You're saying it's just three feet? 3 A. I've been standing next to distracts as 4 they go off, yes. 5 Q. Okay. Now, there was also a nine banger 6 used. Why use a nine banger and a stun stick? 7 A. So part of the plan was to implement that 8 nine banger; and it's, again, to distract that 9 person. 10 Q. Who actually deployed the nine banger? 11 A. I don't remember who. 12 Q. And was it deployed only on the outside of 13 the apartment, or was it thrown inside? 14 A. No. Outside. 15 Q. Okay. Would you agree with me that a nine 16 banger sounds like gunfire? 17 A. To the untrained, yes. 18 Q. Okay. Well, even sometimes to the trained, 19 right, because actually in the video in this case, 20 Officer Bertuccini, I believe, has to ask Rothenburg 21 "Was that a nine banger?" And he was confused about 22 when the gunshots started. 23 Have you seen that? 24 A. No, I didn't see that. 25 Q. Okay. But you certainly agree, at least to</p>



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<p style="text-align: right;">82</p> <p>1 layperson like Mr. Williams, if he hears a nine 2 banger going off, he might believe he was already 3 under gunfire? 4 A. Possibly. 5 Q. Okay. I mean, do you think for a layperson, 6 that would be a logical assumption? 7 MR. ANDERSON: Objection. Form. 8 THE WITNESS: For a who person? 9 BY MR. BREEDEN: 10 Q. For a layperson. 11 A. A "lay"? 12 Q. Nonlaw, nonlaw enforcement. 13 A. Oh. 14 Q. Who does not have experience with nine 15 bangers. 16 A. Yes. 17 Q. Okay. Now, I think what you're saying is -- 18 you correct me if I'm wrong. You're saying he was a 19 law enforcement person, you could tell the difference 20 if we had some sort of experiment where we threw a 21 nine banger and then we just had somebody fire a gun 22 nine times, you could tell the difference between 23 those two. 24 But for an ordinary member of the public, 25 without your law enforcement experience, they might</p>	<p style="text-align: right;">84</p> <p>1 A. There's no policy that says that we need to 2 physically knock on the door. So I would say it was 3 informal, like you said. 4 Q. So you believe there was, at least, an 5 informal policy that somebody should physically knock 6 on the door? 7 A. We never physically knocked on door. 8 Q. Okay. So you're saying the informal policy 9 was not to physically knock on the door? 10 A. Like I said, we've never gone up and 11 knocked on the door. We announced or identified 12 ourselves and our intentions every time. 13 Q. Okay. So would you say that Standard 14 Operating Procedure for SWAT, at that time, was to 15 never physically knock on the door? 16 A. Correct. We never physically knocked on 17 the door. 18 Q. So it was preplanned then that no physical 19 knock on the front door would occur? 20 A. Correct. 21 Q. All right. Do you know why that is? 22 A. From case law, what they're saying is that 23 we don't need to physically go up there and knock on 24 the door once announcements have been made because 25 you have announced who you are; you have identified</p>
<p style="text-align: right;">83</p> <p>1 confuse a nine banger for gunfire? 2 A. Possibly, yes. 3 Q. Okay. And, in fact, especially if a window 4 had been broken out simultaneous with deployment of 5 that nine banger, that might lead somebody to believe 6 that they were actually shooting through the window; 7 right? 8 MR. ANDERSON: Objection to form. 9 THE WITNESS: I don't know. 10 BY MR. BREEDEN: 11 Q. Okay. Well, do you think that's one 12 possible assumption somebody could make? Their 13 window explodes right next to them and they hear nine 14 sounds that sound like gunfire, do you think somebody 15 might believe, in a few seconds that they have to 16 ascertain the situation, that they could be being 17 shot at through the window? 18 A. Possibly. 19 Q. Okay. So Knock and Announce. First part of 20 Knock and Announce is the knock part. Okay. Who was 21 in charge of the knock part? 22 A. Nobody was. 23 Q. Okay. Is it formal or informal policy of 24 Metro that somebody, when doing Knock and Announce, 25 should physically knock on the front door?</p>	<p style="text-align: right;">85</p> <p>1 yourself and as -- as far as your intentions go. So 2 that is Peterson vs. U.S. Ninth Circuit up in 3 Washington state. 4 Q. Okay. And was there anything specific about 5 Apartment 1125 that morning, though, that led any 6 officer to believe that it would be unsafe to knock? 7 A. No. 8 Q. And, in fact, on the video, we could see 9 officers are staging right out in front of the front 10 door. Would you agree with me that it wouldn't have 11 taken a lot of effort for one of those officers just 12 to rap on the door? 13 A. They could have. 14 Q. Okay. But Metro chooses, Metro SWAT chooses 15 not to do that; right? 16 A. Correct. 17 Q. Okay. Now, after "knock," there's 18 "announce." So let's -- let's talk about "announce." 19 For the SWAT operation when Mr. Williams was killed, 20 who was in charge of the announcements? 21 A. Sergeant Backman. 22 Q. And we've already talked about Sergeant 23 Backman. He's got less than 30 days on SWAT, and he 24 hasn't even completed the full SWAT training; 25 correct?</p>

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<p style="text-align: right;">86</p> <p>1 MR. ANDERSON: Objection. Form.</p> <p>2 THE WITNESS: So you're almost implying</p> <p>3 that he's like a brand new person, a brand new</p> <p>4 officer. So Sergeant Backman's been 23-plus years,</p> <p>5 and he's been a sergeant for a long time. He's been</p> <p>6 in a lot of different units, specialized units. So</p> <p>7 narcotics. He's been in major violators. He's --</p> <p>8 he's done surround and callouts numerous times.</p> <p>9 He, when he came up to SWAT, he was given</p> <p>10 that 40-hour class, one on one. So he had that</p> <p>11 training, and he was competent in that position. He</p> <p>12 was in Phase 2 of our SWAT policy in regards to a</p> <p>13 new sergeant program, and at that time frame, he is</p> <p>14 at the position of little to no supervision as far</p> <p>15 as me. So he's being almost on his own, very</p> <p>16 competent in -- in the position. And it's not</p> <p>17 difficult to be on a bullhorn and call out an</p> <p>18 address. So any officer, a brand new officer, is</p> <p>19 able to do that.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q. Okay. Now, to your knowledge, was this the</p> <p>22 first time, during a SWAT where a CET was used, that</p> <p>23 Sergeant Backman would conduct the announcement?</p> <p>24 A. For that position, yes. And then in</p> <p>25 training, bunch of times, we do that.</p>	<p style="text-align: right;">88</p> <p>1 Q. Okay. And so for an apartment, is it the</p> <p>2 official or unofficial or Standard Operating</p> <p>3 Procedure that when you're doing a search warrant on</p> <p>4 an apartment, that the announcements should include</p> <p>5 the apartment number?</p> <p>6 A. I don't think you're going to find it in</p> <p>7 the, like an SOP or in a policy. But as far as what</p> <p>8 should happen if it is an apartment, then yes, give</p> <p>9 the correct apartment number.</p> <p>10 Q. Yeah, because if you just walk around in the</p> <p>11 middle of an apartment complex and you scream</p> <p>12 "Police officer, search warrant" or you just say, you</p> <p>13 give the address but not the apartment number, well,</p> <p>14 there's people in a dozen different apartments that</p> <p>15 could hear you; right?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Was it intended that day that when</p> <p>18 Sergeant Backman gave his announcements, that he</p> <p>19 would also give the apartment number in the</p> <p>20 announcement?</p> <p>21 A. So, yes, it would be intended to give the</p> <p>22 number.</p> <p>23 Q. Are you aware that when he did the first</p> <p>24 announcement, he did not include the apartment</p> <p>25 number?</p>
<p style="text-align: right;">87</p> <p>1 Q. Okay. Now, a bullhorn was used, but is --</p> <p>2 is that official or informal policy of Metro SWAT to</p> <p>3 use a bullhorn for the announcement?</p> <p>4 A. It wasn't in our policy, and what we were</p> <p>5 doing is we wanted to make sure, with the bullhorn</p> <p>6 that's very loud, verbal announcements -- kind of</p> <p>7 the issue that we always had with bullhorns is that,</p> <p>8 during the CETs, the guys would just drop them and</p> <p>9 they would constantly break. So we're always</p> <p>10 constantly replacing those. But in that instant,</p> <p>11 yes, this is part of the plan. We utilized a</p> <p>12 bullhorn.</p> <p>13 Q. Okay. So was there anything particular</p> <p>14 about that morning that caused the bullhorn to be</p> <p>15 used or that was just Standard Operating Procedure?</p> <p>16 A. We started to implement the bullhorn due to</p> <p>17 the fact that, again, we did have a brand new</p> <p>18 bullhorn and then it was not broken.</p> <p>19 Q. Okay. Now, what announcement was intended</p> <p>20 to be given?</p> <p>21 A. So the announcements are going to be</p> <p>22 "Police, search warrant," address of this, and then</p> <p>23 the -- that was -- that's your full announcement.</p> <p>24 So "Police, search warrant," the residence, whatever</p> <p>25 it's going to be.</p>	<p style="text-align: right;">89</p> <p>1 A. No.</p> <p>2 Q. Okay. Now, when an officer is giving the</p> <p>3 announcement, like let's say I get up there, I'm</p> <p>4 doing the announcement and I say: "Everyone, this is</p> <p>5 Sergeant Adam Breeden of the Las Vegas Metropolitan</p> <p>6 Police Department, occupants of 3050 South Nellis</p> <p>7 Boulevard, Apartment 1125, we have a search warrant,</p> <p>8 please open the door," let's say that that's the</p> <p>9 announcement, that's given.</p> <p>10 In terms of how long you wait for somebody</p> <p>11 to come to the door, the reasonable amount of time,</p> <p>12 would you start that time from the beginning of the</p> <p>13 announcement, when I first start speaking, or you</p> <p>14 would you judge that from the end of the</p> <p>15 announcement?</p> <p>16 A. So once you start the announcements is</p> <p>17 you're, basically, would be starting the clock of</p> <p>18 when we're going to go. So if we're going to get</p> <p>19 about two announcements, that's your first</p> <p>20 announcement, second announcement, conclusion.</p> <p>21 Conclusion.</p> <p>22 Q. Okay. So are you saying that's written,</p> <p>23 unwritten, SOP, or informal policy of Metro as to how</p> <p>24 they assess that time, from the beginning of the</p> <p>25 announcement rather than the end?</p>



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<p style="text-align: right;">90</p> <p>1 A. So yes. You're not going to find it in a</p> <p>2 SOP. Your -- what we go off of is the reasonable</p> <p>3 amount of time. So what we're going to do with part</p> <p>4 of the tactical plan is going to be, we're going to</p> <p>5 give out a couple of these announcements, and then</p> <p>6 after that, this is what we're going to do, so</p> <p>7 following that.</p> <p>8 Q. Okay. So why would it make any sense to</p> <p>9 start that time from the beginning because I haven't</p> <p>10 finished speaking? I haven't announced the apartment</p> <p>11 number; I haven't said "Police, search warrant" yet.</p> <p>12 How could somebody understand what was intended if</p> <p>13 you measure that time in seconds from the beginning?</p> <p>14 A. I would say that if you're dealing with</p> <p>15 someone who is a homicide suspect, they know they</p> <p>16 just committed a murder and they hear police outside</p> <p>17 their door, yelling on a bullhorn, they would</p> <p>18 probably have a good indication that they -- we're</p> <p>19 there for them.</p> <p>20 Q. All right. But it wasn't a homicide suspect</p> <p>21 in this time. It was an innocent young man who</p> <p>22 hadn't committed any homicide; right?</p> <p>23 A. Well, he wasn't innocent. He had several</p> <p>24 shooting cases that North Town was looking at.</p> <p>25 Q. You believe he had shooting cases?</p>	<p style="text-align: right;">92</p> <p>1 there to be any certain amount of time in seconds;</p> <p>2 correct?</p> <p>3 A. As far as seconds go, no. We're going off</p> <p>4 of the size of the structure, how small it was, the</p> <p>5 apartment, who we're dealing with, all those</p> <p>6 mitigating factors; and then, again, applying that</p> <p>7 to case law, which is a reasonable amount of time to</p> <p>8 come to the door or to comply.</p> <p>9 Q. Regarding the announcement, do you believe</p> <p>10 that the announcement requirement is met? Let's</p> <p>11 assume this was just a single family residence, not</p> <p>12 an apartment. Do you think that's met by the simple</p> <p>13 announcement "Police, search warrant"?</p> <p>14 A. So say that question again.</p> <p>15 Q. Yeah. So if -- if I were doing, executing a</p> <p>16 search warrant of a single family residence and I</p> <p>17 just walked up to the front door and I announced</p> <p>18 "Police, search warrant," do you think that is a</p> <p>19 legally sufficient announcement?</p> <p>20 A. No. I mean, you're going to have to</p> <p>21 identify the address of a police search warrant,</p> <p>22 residence of this location.</p> <p>23 Q. Okay. So if the announcement in this case</p> <p>24 were just "3050 South Nellis Boulevard, No. 1125,</p> <p>25 police, search warrant," do you think that's</p>
<p style="text-align: right;">91</p> <p>1 A. Yeah.</p> <p>2 Q. Who told you that?</p> <p>3 A. That was after the fact, yes. So he --</p> <p>4 you're saying he's innocent. He -- he was linked to</p> <p>5 a couple of shooting cases up in North Town. So our</p> <p>6 gang investigations team was able to give that</p> <p>7 information out.</p> <p>8 Q. Do you believe he was part of a gang?</p> <p>9 A. I don't know.</p> <p>10 Q. Okay. Well, you didn't know anything about</p> <p>11 Mr. Williams being inside before he was shot; right?</p> <p>12 A. No.</p> <p>13 Q. And, in fact, even after he was shot, you</p> <p>14 assumed it was one of the suspects, Mr. Rembert or</p> <p>15 Mr. Fisher, and then it turned out not to be; right?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. So in terms -- going back to Knock</p> <p>18 and Announce, so the third requirement of Knock and</p> <p>19 Announce is for a reasonable amount of time to pass</p> <p>20 for somebody to come to the door and ascertain that</p> <p>21 it truly is officers and provide them admittance.</p> <p>22 Who was in charge of that that day?</p> <p>23 A. You say that I can be. I'm the team leader</p> <p>24 on that incident.</p> <p>25 Q. Okay. And you -- you had not preplanned for</p>	<p style="text-align: right;">93</p> <p>1 sufficient?</p> <p>2 A. Yes.</p> <p>3 Q. So do you believe as fast as I can yell that</p> <p>4 two times, that immediately upon the ending of the</p> <p>5 second announcement, that force can be used to enter</p> <p>6 that apartment?</p> <p>7 A. Depending on the structure that you're</p> <p>8 applying and who you're dealing with, those would be</p> <p>9 the factors that you also have to consider.</p> <p>10 Q. So let's say it's a super dangerous person</p> <p>11 wanted for a homicide, you think you do not have to</p> <p>12 wait any longer than however fast you can yell</p> <p>13 "3050 South Nellis Boulevard, No. 1125, police,</p> <p>14 search warrant"?</p> <p>15 A. And what's the size of this apartment?</p> <p>16 Q. Well, we'll assume it's like a 700-square</p> <p>17 foot apartment.</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And your testimony earlier was that,</p> <p>20 at least at one time, there was a ten second waiting</p> <p>21 requirement.</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And then it just changed to</p> <p>24 "reasonable"?</p> <p>25 A. Correct.</p>



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<p style="text-align: right;">94</p> <p>1 Q. And I mean, just hypothetically, do you</p> <p>2 think one second is a reasonable amount of time to</p> <p>3 wait?</p> <p>4 A. No.</p> <p>5 Q. How about three seconds?</p> <p>6 A. No.</p> <p>7 Q. How about seven seconds?</p> <p>8 A. Now you're getting into small apartment, so</p> <p>9 yeah.</p> <p>10 Q. Okay. So I'm trying to figure out where you</p> <p>11 draw the line in terms of seconds. Do you draw the</p> <p>12 line at five seconds?</p> <p>13 A. You're saying "seconds," and so what we do</p> <p>14 is go off of your announcement. So what is a</p> <p>15 reasonable amount of time, again, going back to</p> <p>16 compliance, surrendering, submitting, all those</p> <p>17 factors. You're assuming every time that you ask</p> <p>18 this question that someone does come to the door. I</p> <p>19 don't know that. A lot of times they don't come to</p> <p>20 the door.</p> <p>21 So how long do a give a murder suspect to</p> <p>22 sit inside? Because that's what we have to consider</p> <p>23 is our safest tactic for our officers as well as</p> <p>24 everybody else. So the more time you give a murder</p> <p>25 suspect to figure out if he wants to resist, grab a</p>	<p style="text-align: right;">96</p> <p>1 produced in this litigation, and these two pages are</p> <p>2 really the only thing that I would describe as</p> <p>3 written training on Controlled Entry Tactics and</p> <p>4 Knock and Announce that I've been able to find in</p> <p>5 SWAT's training materials. Are you aware of</p> <p>6 something other than this?</p> <p>7 A. No.</p> <p>8 Q. Okay. Now, it does mention one case,</p> <p>9 Wilson vs. Arkansas. This is on 1491. Do you happen</p> <p>10 to know Wilson vs. Arkansas and what the holding was</p> <p>11 in that case?</p> <p>12 A. Not the exact court case and the details of</p> <p>13 it, but I remember reading it. I just can't say</p> <p>14 "recall" because there's a bunch of them.</p> <p>15 Q. Were you ever trained on the Ninth Circuit</p> <p>16 case of United States vs. Banks?</p> <p>17 A. So I've heard that case before.</p> <p>18 Q. Okay. Can you tell me, from memory, what</p> <p>19 that case said or what it required?</p> <p>20 A. Not to my recollection.</p> <p>21 Q. There's another case United States vs.</p> <p>22 Granville. Have you ever been trained on that case?</p> <p>23 A. No. I haven't heard of Granville.</p> <p>24 Q. Okay. So you wouldn't be able to tell me</p> <p>25 what the decision was in United States vs. Granville</p>
<p style="text-align: right;">95</p> <p>1 weapon, run away, take someone hostage, you also</p> <p>2 have to apply those factors. You just can't sit</p> <p>3 there and look at a reasonable amount of time to</p> <p>4 come to the door. There's other factors that we</p> <p>5 take in consideration.</p> <p>6 Q. But under Knock and Announce, don't you have</p> <p>7 to provide the people inside with the same reasonable</p> <p>8 amount of time, whether it's a murder suspect or a</p> <p>9 littering suspect?</p> <p>10 A. So we give them that reasonable amount of</p> <p>11 time, and then we also apply those factors that I</p> <p>12 mentioned before.</p> <p>13 MR. BREEDEN: All right. I'd like to</p> <p>14 provide you, we'll have this marked as Exhibit 1 to</p> <p>15 this deposition.</p> <p>16 (Whereupon Findley/Plaintiff's Exhibit</p> <p>17 No. 1 was marked for identification.)</p> <p>18 BY MR. BREEDEN:</p> <p>19 Q. Have you ever seen this before?</p> <p>20 A. So it's going to be our SWAT policies.</p> <p>21 Q. And just for the record, these are SWAT</p> <p>22 policies and procedures related to Controlled Entry</p> <p>23 Tactics, and it's LVMPD-1490 and 1491.</p> <p>24 Now, I will represent to you that, you know,</p> <p>25 there's probably been 20,000 pages of documents</p>	<p style="text-align: right;">97</p> <p>1 and how that relates to Knock and Announce?</p> <p>2 A. No.</p> <p>3 Q. Okay. Would you agree with me that, prior</p> <p>4 to officers using force to enter the apartment, that</p> <p>5 no one inside the apartment said or did anything or</p> <p>6 reacted in any way?</p> <p>7 A. So prior to entry, we did not hear anybody</p> <p>8 say anything. No announcements from inside of the</p> <p>9 apartment.</p> <p>10 Q. So no one can come along in this case and</p> <p>11 say: "Oh, heard a guy yell 'Get a gun'; I heard a</p> <p>12 guy yell 'Police, run out the back'"?</p> <p>13 Nothing like that happened; right?</p> <p>14 A. We did not hear that.</p> <p>15 Q. And other than a generalized suspicion,</p> <p>16 there was nothing any officer actually observed that</p> <p>17 morning to lead them to believe that there were any</p> <p>18 weapons inside?</p> <p>19 A. I wouldn't say that you're -- the way you</p> <p>20 say it, as far as a "general suspicion." It's</p> <p>21 your -- you got the entire SWAT team that's been --</p> <p>22 has a lot of experience in not only the SWAT tactics</p> <p>23 but as -- as in patrol and then dealing with these</p> <p>24 type of situations where you're dealing with a</p> <p>25 flophouse, dealing with someone who has, say,</p>

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<p style="text-align: right;">98</p> <p>1 committed that homicide. So you have those</p> <p>2 indications that there is access to weapons.</p> <p>3 You're being told by the detectives that</p> <p>4 there's prior cases of these two individuals who</p> <p>5 were in that specific complex on with Fisher, having</p> <p>6 a rifle slung to his back. You have Rembert with</p> <p>7 his vehicle being towed where there was an MP5 that</p> <p>8 was in the vehicle. You have that shooting that</p> <p>9 occurred, accompanied with the homicide. So there</p> <p>10 is a lot of indication that there is going to be</p> <p>11 some access to weapons inside.</p> <p>12 Plus it's a flophouse. It's a narcotics</p> <p>13 house. So going off our experience, that's what we</p> <p>14 go off of. So it's just not a general suspicion.</p> <p>15 It's -- it's we go off of, yeah, it's a pretty good,</p> <p>16 going off our experience, that there's going to be</p> <p>17 some type of weapon inside, and we were correct</p> <p>18 because there was a gun in there.</p> <p>19 Q. Well, with due respect though, I think that</p> <p>20 you've legally just described what is literally</p> <p>21 called "general suspicion." I mean, for example, the</p> <p>22 mere fact that I saw on somebody's Facebook page a</p> <p>23 picture of them with a gun, two or three months</p> <p>24 earlier, that doesn't mean that they automatically</p> <p>25 have that gun with them at all times; right?</p>	<p style="text-align: right;">100</p> <p>1 Q. Now, you're aware that, under the -- the</p> <p>2 reasonable amount of time analysis for Knock and</p> <p>3 Announce, that what is reasonable can vary depending</p> <p>4 on certain factors. For example, you've already</p> <p>5 mentioned one of them, which is the size of the</p> <p>6 apartment; right?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And isn't one of the factors whether</p> <p>9 or not someone is likely to be asleep inside?</p> <p>10 A. I don't think that's necessary that if</p> <p>11 they're asleep.</p> <p>12 Q. So do you believe that one of the factors</p> <p>13 affecting the reasonableness is that, if a person is</p> <p>14 likely to be asleep inside, they should be given a</p> <p>15 longer time to respond?</p> <p>16 MR. ANDERSON: Objection. Form. Go ahead.</p> <p>17 THE WITNESS: Well, it depends on what</p> <p>18 their actions are going to be. Are they going to</p> <p>19 come to the door? I don't know. So give them a</p> <p>20 reasonable amount of time. I give them a reasonable</p> <p>21 amount of time.</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q. Have you been trained on that, that the --</p> <p>24 the amount of time that is considered reasonable</p> <p>25 should be longer if people inside are likely asleep?</p>
<p style="text-align: right;">99</p> <p>1 MR. ANDERSON: Objection to the form of the</p> <p>2 question. Go ahead and answer.</p> <p>3 THE WITNESS: Well, I would say if</p> <p>4 they're -- if they have pictures of a gun, then</p> <p>5 they're going to be associated with the gun.</p> <p>6 There's going to be access to that gun.</p> <p>7 BY MR. BREEDEN:</p> <p>8 Q. You -- you would admit that, before police</p> <p>9 used force to enter the apartment, no gun was</p> <p>10 specifically seen or heard?</p> <p>11 A. We had information that both of those</p> <p>12 subjects, Fisher and Rembert, both, were in</p> <p>13 possessions of firearms. So Fisher had a firearm</p> <p>14 strapped to his back; and then on the secondary</p> <p>15 date, there was a gun, MP5, that was in his BMW that</p> <p>16 was towed later.</p> <p>17 Q. But you're talking about things that were</p> <p>18 observed weeks or months earlier. You're not talking</p> <p>19 about anything that particular day; correct?</p> <p>20 A. Not that specific day.</p> <p>21 Q. Okay. And, in fact, neither of the suspects</p> <p>22 was even inside the house or the apartment that day;</p> <p>23 right?</p> <p>24 A. After the fact, no. We found out they</p> <p>25 weren't in there.</p>	<p style="text-align: right;">101</p> <p>1 A. Not formal training.</p> <p>2 Q. Okay. How about informal?</p> <p>3 A. Not informal training.</p> <p>4 Q. All right. So as far as your personal</p> <p>5 experience is, Las Vegas Metro Police Department has</p> <p>6 never trained you on that issue?</p> <p>7 A. As far as if someone's asleep and comes to</p> <p>8 the door, no. Just going off the case law as far as</p> <p>9 what we have here, which is give them a reasonable</p> <p>10 amount of time, and also the other factors of if</p> <p>11 they can submit, if they can comply.</p> <p>12 Q. Now, you would agree with me that,</p> <p>13 hypothetically, if somebody were asleep, first of</p> <p>14 all, you would need just kind of some general time to</p> <p>15 wake up; right? And then, second of all, you would</p> <p>16 need some time maybe to make yourself decent. I</p> <p>17 mean, you might be sleeping without clothes or in</p> <p>18 your underwear and you don't want to come to the door</p> <p>19 in that way; and then, third, you might be moving a</p> <p>20 little slower, in general, when you first wake up.</p> <p>21 Would you just agree that all that is kind</p> <p>22 of generally accurate?</p> <p>23 MR. ANDERSON: Objection to form. Go ahead.</p> <p>24 THE WITNESS: So in this case, I don't</p> <p>25 know. I don't know if they're asleep. I don't know</p>



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<p style="text-align: right;">102</p> <p>1 what their condition is.</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q. Okay. That -- that kind of leads me to my</p> <p>4 next point. Do you think it is more likely than not</p> <p>5 that Mr. Williams was asleep when this SWAT mission</p> <p>6 began?</p> <p>7 MR. ANDERSON: Objection. Form.</p> <p>8 THE WITNESS: I don't know his condition.</p> <p>9 BY MR. BREEDEN:</p> <p>10 Q. Well, you say that. But, first of all, the</p> <p>11 very fact that it's 5:00 a.m. suggests that the</p> <p>12 occupants inside would probably be asleep; right?</p> <p>13 A. I don't know. This is a 24-hour town.</p> <p>14 People have all sorts of odd shifts.</p> <p>15 Q. You agree with me that the majority of</p> <p>16 people are still sleeping at 5:00 a.m. in a county?</p> <p>17 A. I wouldn't agree with you.</p> <p>18 Q. Okay. And then as it actually turns out,</p> <p>19 the way that Mr. Williams was found inside the</p> <p>20 apartment, he was laying down. He had his head on a</p> <p>21 pillow, on a futon. He had a blanket over him.</p> <p>22 Did he appear that he had been sleeping,</p> <p>23 based on those facts?</p> <p>24 MR. ANDERSON: Objection.</p> <p>25 THE WITNESS: I don't know. I didn't see</p>	<p style="text-align: right;">104</p> <p>1 neighborhood, you might not automatically assume that</p> <p>2 people at the front door are police merely because</p> <p>3 they say "Police"; right?</p> <p>4 A. And I don't think they'd be using a</p> <p>5 bullhorn.</p> <p>6 Q. Do you think this was a rough neighborhood</p> <p>7 or a rough apartment complex?</p> <p>8 A. Yes.</p> <p>9 Q. Are you aware of gang activity in that area?</p> <p>10 A. Yes.</p> <p>11 Q. Do you believe it might be reasonable for a</p> <p>12 young man to have a firearm for his own self-defense?</p> <p>13 MR. ANDERSON: Objection to form.</p> <p>14 THE WITNESS: I would say, within that</p> <p>15 neighborhood, a lot of people carry guns. A lot of</p> <p>16 people who are criminals carry guns.</p> <p>17 BY MR. BREEDEN:</p> <p>18 Q. Some of them carry the guns because they're</p> <p>19 criminals, and some of them carry guns for</p> <p>20 self-defense; right?</p> <p>21 A. Correct.</p> <p>22 Q. I don't know that I've ever met a law</p> <p>23 enforcement officer that didn't frequently carry a</p> <p>24 gun for their own self-defense. Do you do that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">103</p> <p>1 him.</p> <p>2 BY MR. BREEDEN:</p> <p>3 Q. When you assessed the reasonable amount of</p> <p>4 time that it would take somebody to come to the door,</p> <p>5 ascertain that it was police and provide them entry</p> <p>6 for that search warrant, did you consider at all the</p> <p>7 fact that people were likely to be asleep inside?</p> <p>8 A. So we're not going to -- I'm not going to</p> <p>9 sit there and say that the subject is going to be</p> <p>10 automatically sleeping or sleeping at the time.</p> <p>11 Again, like I referred to, a 24-hour day town. So I</p> <p>12 don't know what the -- if that person is, what their</p> <p>13 condition is, if they're sleeping or not. So we</p> <p>14 let -- as far as the reasonable amount of time,</p> <p>15 that's what we're going off of, the policy.</p> <p>16 Q. Okay. Incidentally, not everybody who bangs</p> <p>17 on the front door and says "Police, open up" are</p> <p>18 actually police; right?</p> <p>19 A. I don't know.</p> <p>20 Q. Well, have you ever heard of incidents where</p> <p>21 maybe somebody, a burglar or a home invasion, to get</p> <p>22 people to open the doors, claimed they were police</p> <p>23 and they were not?</p> <p>24 A. They've probably done that before.</p> <p>25 Q. Yeah. So if you lived in a rough</p>	<p style="text-align: right;">105</p> <p>1 Q. At your own home, do you sleep in an area</p> <p>2 where maybe you have a gun in a nightstand or a gun</p> <p>3 that you could easily access if intruders came into</p> <p>4 your home?</p> <p>5 A. Yes.</p> <p>6 Q. And that's loaded?</p> <p>7 A. Yes.</p> <p>8 Q. And if somebody believes that someone is</p> <p>9 unlawfully breaking into their home, they do have a</p> <p>10 right, in the State of Nevada, to use deadly force,</p> <p>11 don't they?</p> <p>12 MR. ANDERSON: Objection. Form.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. BREEDEN:</p> <p>15 Q. Have you ever been trained on Nevada Revised</p> <p>16 Statute 179.055?</p> <p>17 A. What's the -- what is it?</p> <p>18 Q. Well, and that was kind of my first</p> <p>19 question, and I -- I know, you probably don't have</p> <p>20 the entire Nevada Revised Statutes memorized.</p> <p>21 A. No.</p> <p>22 Q. But -- but does that ring a bell when I say</p> <p>23 that?</p> <p>24 A. Not just a number, no.</p> <p>25 Q. Okay. So that is a statute pertaining to</p>



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<p style="text-align: right;">106</p> <p>1 when officers can use force to enter a dwelling to 2 execute a warrant. Are you aware that that statute 3 contains the specific phrase that officers cannot use 4 force until they are, quote, "refused admittance," 5 end quote? 6 A. Yes. 7 Q. In this particular case with the search 8 warrant and Mr. Williams, what actions of 9 Mr. Williams led you to believe that he was refusing 10 admittance to officers? 11 A. Well, first off, we didn't know Mr. Williams 12 was in there. Second of all, we did not hear 13 anybody inside actually comply, saying that they 14 were inside, that they're coming to the door. We 15 re- -- we waited a reasonable amount of time and 16 then conducted the breach of the door. 17 Q. Okay. But there isn't anything specific you 18 could point to that any occupant inside did or said 19 that led you to believe that they would refuse 20 admittance, is there? 21 A. Not anything specific. 22 Q. For example, no one inside yelled "We're not 23 coming out"; right? 24 A. No. 25 (Reporter request.)</p>	<p style="text-align: right;">108</p> <p>1 both of them and were looking that it was possibly 2 the larger floor plan. 3 Q. As far as you knew, could the occupants 4 inside have been women or children? 5 MR. ANDERSON: Objection. Form. 6 THE WITNESS: So we had no indication from 7 the homicide detectives that there would be women or 8 children inside there. 9 BY MR. BREEDEN: 10 Q. But don't you have to consider that that 11 might be the case, that there might be innocent 12 people -- women, children, elderly people -- inside 13 when you serve these warrants? 14 A. Again, going off of what they provided us, 15 there was no indication of, positive indication that 16 there was any women or children, elderly inside. 17 You can always kind of have that factor in mind, in 18 the back of your head, that there could be. 19 Q. Well, I mean, literally a year before this, 20 Ms. King was inside her apartment. She was in there 21 with her children; right? 22 A. Correct. 23 Q. And you believed there were dangerous 24 suspects inside, and there were none; right? 25 A. Correct.</p>
<p style="text-align: right;">107</p> <p>1 THE WITNESS: I said "no." 2 BY MR. BREEDEN: 3 Q. That particular morning, did you know how 4 many people, specifically, were inside the apartment? 5 A. We were being told by homicide that it 6 would be Rembert inside. We were advised, prior to 7 the servicing, that Fisher, who had the ankle 8 monitor, was pinging not there. Going off of 9 factors that it's a flophouse, going off the recon 10 that Officer Hoskins conducted prior to several 11 subjects walking by him going into that apartment, 12 we had a safe indicator and I would say experience 13 that there would be multiple subjects inside. 14 Q. And it actually turned out to be wrong. 15 Mr. Rembert was not inside; right? 16 A. Correct. 17 Q. And individuals inside the apartment, other 18 than Mr. Rembert, you had no idea who those 19 individuals were; right? 20 A. Correct. I didn't know who Mr. Williams 21 was or the secondary subject. 22 Q. Did you have any idea of the floor plan or 23 the layout of the apartment? 24 A. We had a floor plan, two floor plans we 25 were considering. We had the -- the printout of</p>	<p style="text-align: right;">109</p> <p>1 Q. And she was pretty severely injured because 2 of that, wasn't she? 3 A. Yes. 4 Q. In -- in terms of use of force, you never 5 used any kind of force or deployed your firearm that 6 morning, did you? 7 A. I had my firearm out. I wouldn't say like 8 I deployed it. It was -- it was out and I didn't 9 use it. 10 MR. ANDERSON: I'd like to show you what 11 we'll have marked as Exhibit 2 for your deposition. 12 (Whereupon Findley/Plaintiff's Exhibit 13 No. 2 was marked for identification.) 14 BY MR. BREEDEN: 15 Q. Take just a second, look that over, and let 16 me know if you've ever seen that document before. 17 A. (Witness complies.) Haven't seen that, but 18 the material that's in it is familiar from policy. 19 Q. Okay. So this is a policy from the 20 State of Nevada Commission on Peace Officers 21 Standings (sic) and Training. It's Performance 22 Objective Reference Material, and it refers 23 specifically to the Knock and Announce requirement. 24 It's your testimony that you've never seen 25 this document prior to today?</p>

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<p style="text-align: right;">110</p> <p>1 A. No, not this document.</p> <p>2 Q. And would you agree with me that you've</p> <p>3 never been given any training by Las Vegas Metro</p> <p>4 Police Department on Knock and Announce, at least as</p> <p>5 this specific document describes it?</p> <p>6 A. No. As far as someone coming in and -- and</p> <p>7 showing this document and -- no.</p> <p>8 Q. Yeah. So if we go down to this Wait/Refusal</p> <p>9 requirement, it says refusal could be based on a</p> <p>10 verbal statement. But in this case with</p> <p>11 Mr. Williams, nobody gave any verbal statement of any</p> <p>12 kind, refusing officers entry before force was used;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. And it says that individual conduct -- you</p> <p>16 know, for example, if you saw maybe somebody inside</p> <p>17 running to grab a gun or take a defensive position,</p> <p>18 you know, that that might justify a shorter amount of</p> <p>19 time. But nothing like that occurred for this</p> <p>20 particular search warrant; correct?</p> <p>21 A. Prior to, no.</p> <p>22 Q. Yeah. And then so the last one is the</p> <p>23 passage of a reasonable amount of time. And here,</p> <p>24 the Commission on Peace Officer Standards and</p> <p>25 Training give some guidance, and it says, quote:</p>	<p style="text-align: right;">112</p> <p>1 MR. ANDERSON: Objection. Form.</p> <p>2 THE WITNESS: Correct. We didn't know</p> <p>3 Mr. Williams was in there.</p> <p>4 BY MR. BREEDEN:</p> <p>5 Q. Would you agree that, at least under this</p> <p>6 written standard, SWAT did not wait a reasonable</p> <p>7 amount of time before using force to enter?</p> <p>8 MR. ANDERSON: Objection. Form. Go ahead.</p> <p>9 THE WITNESS: We did not wait a minute,</p> <p>10 which is according to this document here. I believe</p> <p>11 we waited a reasonable amount of time.</p> <p>12 BY MR. BREEDEN:</p> <p>13 Q. Okay. So you waited what you believe was a</p> <p>14 reasonable amount of time, but according to that</p> <p>15 written standard, what was not the minute that was</p> <p>16 recommended; is that what your testimony is?</p> <p>17 MR. ANDERSON: Objection. Form.</p> <p>18 THE WITNESS: Correct. We did not wait a</p> <p>19 minute, but I -- we waited what a reasonable amount</p> <p>20 of time is and after the two announcements.</p> <p>21 BY MR. BREEDEN:</p> <p>22 Q. I think we mentioned earlier in this</p> <p>23 deposition that neither suspect, Fisher or Rembert,</p> <p>24 were actually found inside the apartment after all</p> <p>25 the dust cleared; right?</p>
<p style="text-align: right;">111</p> <p>1 "Note: The amount of time that is</p> <p>2 considered reasonable will depend on all the</p> <p>3 circumstances. Approximately one minute would be a</p> <p>4 safe period in most cases, but it can be less,</p> <p>5 especially if police officers know that someone is</p> <p>6 inside and awake," end quote.</p> <p>7 Have you ever, until this deposition, heard</p> <p>8 that one minute rule?</p> <p>9 A. No.</p> <p>10 Q. Can we agree with you that when officers</p> <p>11 showed up, when SWAT showed up to serve this warrant,</p> <p>12 they did not intend to wait one minute after</p> <p>13 announcements were given?</p> <p>14 A. Correct.</p> <p>15 Q. The example that it gives when that time</p> <p>16 might be less is when peace officers know that</p> <p>17 someone is inside and awake in the dwelling. But in</p> <p>18 Mr. Williams' particular case, you had no information</p> <p>19 whether he was asleep or awake at the time; right?</p> <p>20 A. Correct.</p> <p>21 Q. So at least on under this standard, you</p> <p>22 would not be able to argue that the time could be</p> <p>23 less than a minute because officers knew someone was</p> <p>24 inside and awake because you had no such information;</p> <p>25 correct?</p>	<p style="text-align: right;">113</p> <p>1 A. Correct.</p> <p>2 Q. And, in fact, you were there to execute a</p> <p>3 search warrant for certain property, and none of that</p> <p>4 property was found inside the apartment either;</p> <p>5 correct?</p> <p>6 A. I don't know about it.</p> <p>7 Q. You don't know, one way or another?</p> <p>8 A. No. I wasn't told if there was a gun in</p> <p>9 there or any evidence that was found in there.</p> <p>10 We -- I never was -- that was homicide's thing.</p> <p>11 Q. The firearm that Mr. Williams used, was that</p> <p>12 the firearm used in the homicide that was being</p> <p>13 investigated?</p> <p>14 A. I don't know.</p> <p>15 Q. And you agree that prior to January 10th of</p> <p>16 2022, you had never heard of Isaiah Williams or</p> <p>17 investigated him; correct?</p> <p>18 A. Correct.</p> <p>19 Q. Do you recall what type of property was</p> <p>20 sought in the search warrant?</p> <p>21 A. There was going to be the clothing that was</p> <p>22 worn during that, that day. They were looking for a</p> <p>23 firearm, paraphernalia related to firearms, like</p> <p>24 ammo, and as well as cellular devices.</p> <p>25 Q. Okay. Now, in some search warrants, like a</p>



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<p style="text-align: right;">114</p> <p>1 search warrant for narcotics, there's a concern by</p> <p>2 police that the narcotics could be easily disposed</p> <p>3 of. For example, they could be flushed down a</p> <p>4 toilet.</p> <p>5 A. Yes.</p> <p>6 Q. Well, was there any such concerns for the</p> <p>7 items listed in this search warrant?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Have you ever heard of a .22 or a</p> <p>10 .32 caliber handgun being flushed down a toilet?</p> <p>11 A. You probably couldn't flush it down the</p> <p>12 toilet, but you could definitely alter it to where</p> <p>13 it wouldn't be matched towards any type of evidence</p> <p>14 relating to -- to the crime.</p> <p>15 Q. Okay. Well, let me ask you that just the</p> <p>16 nature of the things that you are searching for,</p> <p>17 clothing and a handgun, would you agree with me that</p> <p>18 those could not be as easily disposed of as, for</p> <p>19 example, narcotics?</p> <p>20 A. Clothing, you could definitely destroy</p> <p>21 fairly quickly as well as cellular devices, you</p> <p>22 could destroy pretty quick.</p> <p>23 Q. Well, how? How would you destroy clothing?</p> <p>24 A. Burn it.</p> <p>25 Q. Any other -- any other way you could think</p>	<p style="text-align: right;">116</p> <p>1 Now, it says "six seconds" there. I believe</p> <p>2 that's in dispute. I believe that the video shows it</p> <p>3 was even fewer amount of seconds. But would you</p> <p>4 agree that it was no longer than six seconds?</p> <p>5 MR. ANDERSON: Objection to form.</p> <p>6 THE WITNESS: I don't know as far as the</p> <p>7 time frame. I know that Officer Bertuccini was</p> <p>8 supposed to, by the plan, insert it after that</p> <p>9 announcement.</p> <p>10 BY MR. BREEDEN:</p> <p>11 Q. All right. Well, let -- let me phrase it a</p> <p>12 little differently: Las Vegas Metro Police's own</p> <p>13 CIRT report concluded that the wait time had only</p> <p>14 been six seconds. Do you disagree with that? Do you</p> <p>15 think it was longer?</p> <p>16 A. As far as the insertion?</p> <p>17 Q. As far as the amount of time, from when the</p> <p>18 announcement started, to when the stun stick was</p> <p>19 inserted through the window.</p> <p>20 A. So they -- yes, it was -- I've read that</p> <p>21 report. It said six seconds. Yes.</p> <p>22 Q. And do you believe that six seconds was a</p> <p>23 long enough time for Mr. Williams to wake up, walk to</p> <p>24 the door, ascertain that it was police, and provide</p> <p>25 them lawful entry?</p>
<p style="text-align: right;">115</p> <p>1 of?</p> <p>2 A. You could throw them in the oven and start</p> <p>3 burning it. You could throw some type of acid on</p> <p>4 there, some type of bleach, to get rid of that some</p> <p>5 of that DNA that could link you to the crime.</p> <p>6 Q. When you say the cellular devices, that</p> <p>7 somebody could destroy them, you just mean maybe they</p> <p>8 could step on them? Smash them?</p> <p>9 A. Yeah. I mean, cellphones can be destroyed.</p> <p>10 Hilary Clinton was able to do pretty good. But yes,</p> <p>11 cell, cellular devices can be destroyed.</p> <p>12 Q. Okay. Give me just a second to look over my</p> <p>13 notes here. Did you ever see a physical copy of the</p> <p>14 search warrant?</p> <p>15 A. Yes.</p> <p>16 Q. To your knowledge, was it ever left at the</p> <p>17 apartment scene?</p> <p>18 A. I don't know.</p> <p>19 Q. Who would be in charge of that?</p> <p>20 A. Would be homicide.</p> <p>21 Q. The CIRT report contains the following</p> <p>22 statement here, quote: "Six seconds after starting</p> <p>23 his announcement, Officer Bertuccini inserted the</p> <p>24 stun stick through the western facing window," end</p> <p>25 quote. That's actually contained at LVMPD-4386.</p>	<p style="text-align: right;">117</p> <p>1 A. You're saying that he needs to wake up. I</p> <p>2 don't know if he needs to wake up. Right next to</p> <p>3 the door is where he was at, which is just several</p> <p>4 feet away. So six seconds is plenty of time to</p> <p>5 announce, to comply, and to come to the door, and</p> <p>6 that was just off a insertion of a -- the stun</p> <p>7 stick.</p> <p>8 Q. I'm not going to do this, okay, because I'm</p> <p>9 not going to personalize this. But if I came to your</p> <p>10 home at 5:00 a.m. and you were sleeping somewhere in</p> <p>11 your home and I started knocking, wanting you to come</p> <p>12 to the door, do you think you would do that within</p> <p>13 six seconds?</p> <p>14 MR. ANDERSON: Objection. Form.</p> <p>15 THE WITNESS: Not at my house.</p> <p>16 BY MR. BREEDEN:</p> <p>17 Q. When we look at this, Mr. Williams did draw</p> <p>18 a firearm, and he fired it on a group of people. It</p> <p>19 turned out to be police officers. Would you agree</p> <p>20 with me that, if Mr. Williams believed those were</p> <p>21 police officers, that would be a pretty dumb thing</p> <p>22 for him to do?</p> <p>23 A. I would say that he had full intentions on</p> <p>24 what his plans were, given the fact that he was a</p> <p>25 violent individual. And, again, this is learning</p>



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<p style="text-align: right;">118</p> <p>1 after the fact and learning that he's wanted for</p> <p>2 robberies up in North Town, that he probably thought</p> <p>3 that we were coming for him, and so that was his</p> <p>4 intention was to shoot at officers as they came in.</p> <p>5 Q. Well, would you agree with me that that</p> <p>6 would essentially be suicide by cop?</p> <p>7 A. I don't think it would be suicide by cop.</p> <p>8 I think he -- he figured that he was going to shoot</p> <p>9 officers as they came in. I don't know what his</p> <p>10 plan was, if it was suicide by cop.</p> <p>11 Q. Well, I mean, look, if I opened fire on a</p> <p>12 group of probably 12 SWAT officers who are fully</p> <p>13 armed, coming into my home, don't you think that</p> <p>14 that's suicidal to do?</p> <p>15 MR. ANDERSON: Objection to form.</p> <p>16 THE WITNESS: It could be suicide by cop.</p> <p>17 BY MR. BREEDEN:</p> <p>18 Q. Would you agree with me that the fact that</p> <p>19 Mr. Williams did that tends to suggest that he did</p> <p>20 not properly understand who was coming through the</p> <p>21 front door?</p> <p>22 MR. ANDERSON: Objection. Form.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MR. BREEDEN:</p> <p>25 Q. Did you ever see any officer providing</p>	<p style="text-align: right;">120</p> <p>1 actually shot, he was laying down on the couch or</p> <p>2 futon?</p> <p>3 A. I was made aware of that after the fact.</p> <p>4 Q. Okay. When you saw Mr. Williams, how many</p> <p>5 seconds or minutes was it after the shooting?</p> <p>6 A. I would say probably about 30, 40 seconds.</p> <p>7 It took -- it took quite a bit of time because the</p> <p>8 team got bogged down coming into the threshold of</p> <p>9 the residence. I was at the -- the back. They</p> <p>10 ended up taking Officer Kubla out of there, and I</p> <p>11 had to verify to make sure that he was injured, that</p> <p>12 he was shot, and so then I stood outside and started</p> <p>13 coordinating that there was an officer down. They</p> <p>14 advised me that the subject inside was shot, which</p> <p>15 was Mr. Williams.</p> <p>16 So as far as that time frame, I don't know</p> <p>17 how long that was, and then I was able to peak my</p> <p>18 head in and see that Mr. Williams' head now was at</p> <p>19 the -- in the living room.</p> <p>20 Q. And he was laying on his back, on the floor?</p> <p>21 A. Yes.</p> <p>22 Q. Did he appear to be deceased to you?</p> <p>23 A. I don't know. I didn't get a good look.</p> <p>24 Q. Looking back on this operation that you were</p> <p>25 the team leader, is there anything that you would</p>
<p style="text-align: right;">119</p> <p>1 medical aid to Mr. Williams?</p> <p>2 A. Yes.</p> <p>3 Q. Who?</p> <p>4 A. It would be our TAC medical doctors.</p> <p>5 Q. Who is that?</p> <p>6 A. We had Will Bridges, and then we also had a</p> <p>7 trauma doctor as well, but I believe the SAR, one of</p> <p>8 the SAR guys ended up attending to him.</p> <p>9 Q. What, if anything, did they do?</p> <p>10 A. I don't know. I didn't see what they did.</p> <p>11 I just saw guys, which was looked like SAR, working</p> <p>12 on Mr. Williams.</p> <p>13 Q. At some point, did you enter the apartment</p> <p>14 and see Mr. Williams?</p> <p>15 A. I stepped in, saw that Mr. Williams was</p> <p>16 down, right at the living room area, and I was</p> <p>17 stepping out because I was very busy, running dual</p> <p>18 cons, which is dual radios, talking to the area</p> <p>19 command, coordinating that, as well as talking with</p> <p>20 the guys, all the SWAT officers.</p> <p>21 Q. So when you saw Mr. Williams, he had been</p> <p>22 placed on the floor?</p> <p>23 A. Correct.</p> <p>24 Q. Were -- were you ever made aware, or when</p> <p>25 were you made aware of the fact that when he was</p>	<p style="text-align: right;">121</p> <p>1 change about it?</p> <p>2 MR. ANDERSON: Objection. Form.</p> <p>3 THE WITNESS: So there's -- there's quite a</p> <p>4 few things that we would change. And after every</p> <p>5 mission, you know, we sit there and debrief what we</p> <p>6 could have done better, and there's obviously some</p> <p>7 stuff that -- that we need to look at and do better.</p> <p>8 I know that homicide is kind of constrained</p> <p>9 on what they could do. And but looking up some</p> <p>10 surveillance, making sure that the target is in</p> <p>11 there; utilization of different techniques, whether</p> <p>12 it's a shock lock or something on the locking</p> <p>13 mechanism or even a breach going after a No Knock</p> <p>14 Warrant so we could go with the breaching capability.</p> <p>15 So those are just some things that we could throw</p> <p>16 out there; or if it comes down to it, you don't</p> <p>17 serve it. You can do a take -- takeaway with</p> <p>18 different units, so.</p> <p>19 BY MR. BREEDEN:</p> <p>20 Q. Is one technique to get some surveillance on</p> <p>21 the apartment, wait until everybody leaves, and then</p> <p>22 go to serve it?</p> <p>23 A. No. But if you see maybe the target that</p> <p>24 you're looking for, again, take him away. If you</p> <p>25 have information that he is the only person inside,</p>

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<p style="text-align: right;">122</p> <p>1 that would be a good, good technique, and then you</p> <p>2 know that nobody else is inside. You can safely</p> <p>3 serve that search warrant.</p> <p>4 Q. Now, you know, I asked you if you thought</p> <p>5 there were things that could be done better or could</p> <p>6 have been changed, and you mentioned: Well, we could</p> <p>7 have done surveillance a little differently; we could</p> <p>8 have possibly used a shock lock; we could have</p> <p>9 applied for a No Knock Warrant.</p> <p>10 Have you ever served a No Knock Warrant?</p> <p>11 A. No.</p> <p>12 Q. Would you agree with me that they are very</p> <p>13 rarely, if ever, used by Las Vegas Metro Police</p> <p>14 Department?</p> <p>15 A. I know that kind of the -- as far as what</p> <p>16 SWAT has to do now is go through the application of</p> <p>17 a No-Knock Warrant. Just because we get a No-Knock</p> <p>18 Warrant doesn't mean that we serve it as a No Knock.</p> <p>19 We can still put out those announcements as well.</p> <p>20 Q. Okay. So do you believe that if you had</p> <p>21 applied for a No-Knock Warrant for this search</p> <p>22 warrant, it would have been granted?</p> <p>23 A. I have no idea.</p> <p>24 Q. Okay. Do -- is there an informal policy at</p> <p>25 Metro, right now, that no-knock warrants will not be</p>	<p style="text-align: right;">124</p> <p>1 changed about service of this warrant that would have</p> <p>2 made it safer for officers or the member of the</p> <p>3 public?</p> <p>4 A. That would be, probably be my -- my picks</p> <p>5 right there.</p> <p>6 Q. Is it your understanding that Las Vegas</p> <p>7 Metro Police Department now considers CET entry to be</p> <p>8 in conflict with the constitutional Knock and</p> <p>9 Announce requirement?</p> <p>10 MR. ANDERSON: Objection to form.</p> <p>11 THE WITNESS: I don't know if they view it</p> <p>12 as in conflict. I just know that what they're doing</p> <p>13 is going away and going towards if you are going to</p> <p>14 utilize that technique, you'll have to get a</p> <p>15 No-Knock service. And, again, going off of that</p> <p>16 doesn't mean that we'll serve it as a No Knock.</p> <p>17 BY MR. BREEDEN:</p> <p>18 Q. You gave a CIRT interview. Have you</p> <p>19 given -- and this deposition obviously.</p> <p>20 Have you given out any other recorded</p> <p>21 statements about what occurred?</p> <p>22 A. No.</p> <p>23 Q. Have you ever asserted your Fifth Amendment</p> <p>24 right to remain silent, to refuse to answer questions</p> <p>25 about this incident?</p>
<p style="text-align: right;">123</p> <p>1 issued?</p> <p>2 A. No. There's no --</p> <p>3 Q. Or sought?</p> <p>4 A. Yeah, there's no like a formal policy,</p> <p>5 informal policy, that no knocks will not --</p> <p>6 that's -- what they're doing now is, if they, if --</p> <p>7 nowadays, they will need to get a No Knock in order</p> <p>8 to utilize a Controlled Entry Tactic.</p> <p>9 Q. So did you ever use a Controlled Entry</p> <p>10 Tactic for a No Knock when you were on SWAT?</p> <p>11 A. No.</p> <p>12 Q. Who is the lieutenant that replaced</p> <p>13 Lieutenant O'Daniel?</p> <p>14 A. Adrian Beas.</p> <p>15 Q. Can you spell the last name for me?</p> <p>16 A. B-E-A-S?</p> <p>17 MR. ANDERSON: Not sure.</p> <p>18 THE WITNESS: I'd have to look at my phone.</p> <p>19 MR. ANDERSON: I think you're right,</p> <p>20 B-E-A-S.</p> <p>21 BY MR. BREEDEN:</p> <p>22 Q. So we mentioned surveillance. We mentioned</p> <p>23 possible use of a shock lock. Possible application</p> <p>24 for a No-Knock Warrant or possibly just don't serve</p> <p>25 it. What other things do you think could have been</p>	<p style="text-align: right;">125</p> <p>1 A. No.</p> <p>2 Q. Do you have any remorse or regrets about</p> <p>3 what happened to Mr. Williams?</p> <p>4 A. Yes. I'm sure that, you know, looking at</p> <p>5 this, this mission, there was some good things and</p> <p>6 bad things that occurred. Obviously, an individual</p> <p>7 was killed; and then obviously some officers were</p> <p>8 injured. So looking at hindsight, you're -- we're</p> <p>9 always trying to do better, better tactics, and</p> <p>10 learn from it and -- and move on.</p> <p>11 Q. Do you agree that this was preventable and</p> <p>12 Mr. Williams didn't have to die?</p> <p>13 MR. ANDERSON: Objection to form.</p> <p>14 THE WITNESS: I wouldn't be able to answer</p> <p>15 that.</p> <p>16 BY MR. BREEDEN:</p> <p>17 Q. You just have no opinion on it or -- or you</p> <p>18 think that -- I don't understand your response.</p> <p>19 A. My personal opinion is that learning from</p> <p>20 his prior history, what he was doing, carrying the</p> <p>21 firearm, I know that our gang unit was actively</p> <p>22 looking for him. I know that North Town had active</p> <p>23 cases on him. I believe that Mr. Williams, going</p> <p>24 off of just kind of history, experiences, that he</p> <p>25 would have been hurt by someone out there. He would</p>



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<p style="text-align: right;">126</p> <p>1 have been involved in some type of shooting. I</p> <p>2 think -- I think the safest thing would have been</p> <p>3 for North Town to put a case on him and him to be in</p> <p>4 jail at that time.</p> <p>5 Q. Hypothetically, if instead of believing</p> <p>6 that Mr. Rembert was inside that apartment and,</p> <p>7 instead, the information was that two unknown black</p> <p>8 males were inside, what would have been done</p> <p>9 differently?</p> <p>10 MR. ANDERSON: Objection to form. Go ahead.</p> <p>11 BY MR. BREEDEN:</p> <p>12 Q. Would CET have been used at all?</p> <p>13 A. Going off of we have no idea who these</p> <p>14 people are and we're going after their property?</p> <p>15 Q. Correct.</p> <p>16 A. That would be up to the tactical commander.</p> <p>17 I mean, we could sit there and give the options of</p> <p>18 like we can go the CET route. We don't know who</p> <p>19 these people are inside, or we can wait a little bit</p> <p>20 further and see if homicide, or whoever in this</p> <p>21 scenario is, is to figure out who these people are</p> <p>22 inside.</p> <p>23 Q. Well, which would you have recommended</p> <p>24 hypothetically? Would you have recommended "Let's do</p> <p>25 this anyway with a CET," or would you have</p>	<p style="text-align: right;">128</p> <p>1 best for the team.</p> <p>2 Q. Officer Kubla was intended to be the first</p> <p>3 man in; right?</p> <p>4 A. Correct.</p> <p>5 Q. Why wouldn't he have a ballistic shield?</p> <p>6 A. Again, that -- that's -- he was carrying a</p> <p>7 rifle. So it wouldn't have been possible to -- to</p> <p>8 carry a shield. It could have been part of the plan</p> <p>9 to where the first subject goes in is carrying a</p> <p>10 shield. But more than likely, what you want to do</p> <p>11 is carry a shield going through some type of</p> <p>12 hallway, not necessarily through the entry point of</p> <p>13 a residence like that. So with a shield, again,</p> <p>14 you're -- you're limited; you're cumbersome, and</p> <p>15 then your -- your vision is limited.</p> <p>16 Q. Is it common for the first man in to have a</p> <p>17 ballistic shield?</p> <p>18 A. No, it's not common.</p> <p>19 MR. BREEDEN: Okay. Sergeant Findley, I</p> <p>20 think those are all my questions.</p> <p>21 Do you have anything, Mr. Anderson?</p> <p>22 MR. ANDERSON: No questions.</p> <p>23 MR. BREEDEN: All right. We will go off</p> <p>24 the record at this time.</p> <p>25 THE VIDEOGRAPHER: Before we go off, Craig,</p>
<p style="text-align: right;">127</p> <p>1 recommended a different route?</p> <p>2 A. I think we could have dug a little bit more</p> <p>3 and figured out who was inside.</p> <p>4 Q. Because it was -- it was dangerous to do</p> <p>5 this on a CET without knowing for certain who was</p> <p>6 inside, wasn't it?</p> <p>7 A. Correct. But we had the -- the only</p> <p>8 information that we had was saying, from homicide,</p> <p>9 that subjects were inside, which was Fisher,</p> <p>10 Rembert; and then we also had their family, a step</p> <p>11 mother, advising that's where they were at.</p> <p>12 Q. And that, that turned out to be bad</p> <p>13 information, at least for this particular morning?</p> <p>14 A. For this particular morning, correct.</p> <p>15 Q. Do you know if either of the suspects</p> <p>16 were -- were actually the lessor of the apartment?</p> <p>17 A. I don't know if they were. But in the IAP,</p> <p>18 it was saying it was just a flophouse, and I believe</p> <p>19 that they weren't the lessee to it.</p> <p>20 Q. Why wouldn't all the officers in the line</p> <p>21 have a ballistic shield?</p> <p>22 A. Because we, how we train, we'll just</p> <p>23 usually have it up, up front or on the containment</p> <p>24 positions. It's very large, cumbersome. So you</p> <p>25 have to position it in a certain way that would be</p>	<p style="text-align: right;">129</p> <p>1 are you going to need the video?</p> <p>2 MR. ANDERSON: I do not need the video, but</p> <p>3 I will order a copy.</p> <p>4 THE REPORTER: Thank you.</p> <p>5 THE VIDEOGRAPHER: This concludes today's</p> <p>6 deposition given by Garth Findley, consisting of one</p> <p>7 disc. The time is 11:45 a.m. Thank you.</p> <p>8 MR. BREEDEN: All right. Craig.</p> <p>9 MR. ANDERSON: Appreciate it.</p> <p>10 MR. BREEDEN: I'll see you around.</p> <p>11 THE REPORTER: Do you have to leave so</p> <p>12 quickly? I have some questions.</p> <p>13 Is an e-tran good for you?</p> <p>14 MR. ANDERSON: Yes, that's fine.</p> <p>15 THE REPORTER: Thank you.</p> <p>16</p> <p>17 (The deposition concluded at 11:45 a.m.)</p> <p>18 -oOo-</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



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I, GARTH FINDLEY, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action; under penalty of perjury; that I have read, corrected and do hereby affix my signature to said deposition.

GARTH FINDLEY      Deponent      Date

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CERTIFICATE OF REPORTER			
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I, Dana J. Tavaglione, a Certified Court Reporter, licensed by the State of Nevada, do hereby certify:

That I reported the deposition of the witness, GARTH FINDLEY, commencing on February 5, 2025, at 9:05 a.m.;

That prior to being examined, the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that I thereafter transcribed my related shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate record of testimony provided by the witness at said time.

I further certify (1) that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel involved in said action, nor a person financially interested in the action; and (2) that pursuant to Rule 30(e), transcript review by the witness was requested.

IN WITNESS WHEREOF, I have hereunto set my hand, in my office in the County of Clark, State of Nevada, this 14th day of February 2025.

*Dana J. Tavaglione*

DANA J. TAVAGLIONE, RPR, CCR NO. 841